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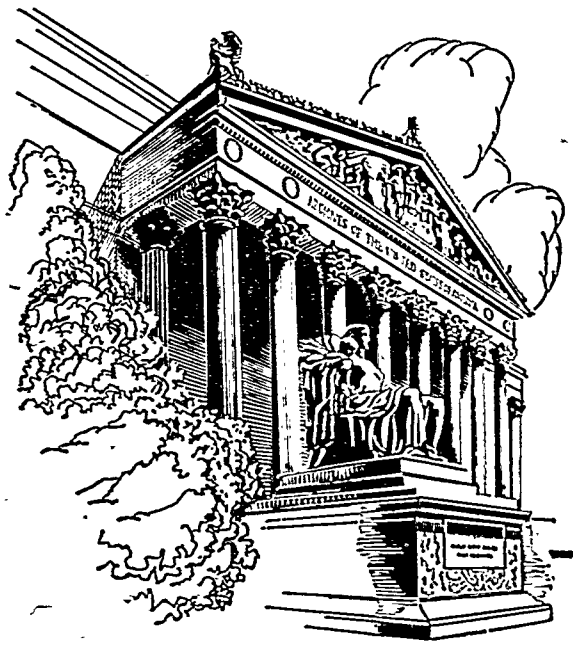

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Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 907—HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Miscellaneous Amendments

Notice is hereby given of the approval of an amendment, hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 907.100 et seq.) currently in effect pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907; 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This amendment is necessary to bring the provisions of said rules and regulations into conformity with the amended provisions of the marketing agreement and order which became effective November 1, 1970. Consistent therewith, the amendment as hereinafter set forth (1) specifies that handlers shall make a certification to the Navel Orange Administrative Committee as to their control of oranges rather than submitting copies of their written contracts with growers, (2) prescribes a procedure to be followed by handlers and the committee relative to lending of allotment, and (3) establishes a procedure for the allocation of "Early maturity allotment."

It is hereby found and determined that said amendment of the rules and regulations, which was proposed and submitted for approval by the Navel Orange Administrative Committee, established pursuant to the amended marketing agreement and order as the agency to administer the provisions thereof, is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937, as amended; and said rules and regulations are hereby amended as follows:

1. Section 907.108 *Prorate bases and allotments* is amended by deleting paragraph (b), and revising the second sentence of paragraph (a) to read as follows:

§ 907.108 Prorate bases and allotments.

(a) *Application to be filed.* * * * Such application shall contain the information required pursuant to § 907.53(b) and a certification to the U.S. Department of Agriculture and the Navel Orange Administrative Committee by the handler that the information in the application is true and that he has control, for all purposes relating to this part, of the oranges described in the application. * * *

2. Section 907.111 *Allotment loans* is amended by redesignating paragraphs (b) (4), (5), and (6) as paragraphs (b) (5), (6), and (7), respectively, revising the second sentence of paragraph (a) (1), and adding a new paragraph (b) (4) to read, respectively, as follows:

§ 907.111 Allotment loans.

(a) * * *

(1) *Payback date.* * * * Each loan agreement entered into between handlers in the same district to whom short-life allotments have been issued shall provide for the repayment of the loan during the time the borrowing short-life handler will be issued allotment.

* * * * *

(b) * * *

(4) In arranging loans for handlers to whom short-life allotments have been issued, the committee shall offer such loans first, to other handlers within the same district to whom short-life allotments have been issued; second, to handlers within the same district to whom general maturity allotments have been issued; and third, to handlers in other districts to whom allotments have been issued. All such loans to handlers to whom general maturity allotments have been issued shall provide for a payback date within the scheduled shipping period of the lending short-life handler.

3. A new paragraph (c) is added to § 907.113 *Early maturity allotments* to read as follows:

§ 907.113 Early maturity allotments.

* * * * *

(c) Whenever the total amount of early maturity allotment the committee determines should be granted to handlers within a prorate district equals or is larger than the total amount applied for in such district, the full amount applied for in each application shall be granted. Whenever the total amount applied for exceeds the total amount of early maturity allotment the committee deems should be granted in the district, the request of each handler in such district shall be granted in the same proportion as the handler's tree crop bears to the total tree crop of requesting handlers in that district, but not in excess of the amount requested, and any allotment then remaining shall be granted in successive increments, as necessary, to handlers filing requests, in proportion to the tree crop controlled by each, but not in excess of the amount requested.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of navel oranges are currently in progress and to be of maximum benefit the provisions of this amendment should become effective on the date specified herein, (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, and (3) this amendment was unanimously recommended by members of the Navel Orange Administrative Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated December 1, 1970, to become effective December 10, 1970.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-16314; Filed, Dec. 3, 1970; 8:50 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 64]

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Greater Kansas City marketing area.

It is hereby found and determined that for the months of November 1970 through January 1971, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1064.12(c), the provision: "November, December, and January,".

2. In § 1064.15(a), the provision: "35 percent in September through January and 100 percent in February through August of".

3. In § 1064.15(b), the provision: "35 percent in September through January and 100 percent in February through August of".

4. In § 1064.44, paragraph (c) in its entirety.

5. In the introductory text of § 1064.44 (d) preceding subparagraph (1), the provision: ", located not more than 400

miles, by the shortest highway distance as determined by the market administrator, from the nearer of the city halls of Kansas City, Missouri, or Topeka, Kansas."

Statement of consideration. Suspension of the provision listed in 1 above will reduce the performance standard for pooling a cooperative association supply plant to require that 50 percent or more, instead of 65 percent or more, of a cooperative's member producer milk be received at pool distributing plants either by transfer from such plant or by delivery directly from its member producers' farms.

Suspension of such provision was requested by a cooperative association representing more than two-thirds of the producers on the market to enable continue pooling under the order of its supply plant at Sabetha, Kans.

The cottage cheese processing operations of two handlers, formerly conducted in pool distributing plants, have been removed therefrom and the cottage cheese needs of such plants are now supplied by nonpool plants. Thus, milk formerly received at these pool distributing plants for cottage cheese manufacturing is not now included as a receipt at the pool distributing plant and no longer counts toward qualification of the cooperative association plant. Suspension is necessary to insure continued pool plant status for the latter plant.

Suspension of the provisions listed in 2 and 3 above will allow increased diversions of producer milk from pool distributing plants to pool supply plants and nonpool plants. It will permit an amount of producer milk equal to that received at pool distributing plants to be diverted, instead of the present 35 percent of such receipts.

The cooperative requesting this suspension action states that it diverted 32 percent of the milk received at pool distributing plants in October 1970, an increase from 15 percent so diverted in October 1969. Suspension of the 35 percent diversion limitation is necessary to accommodate the efficient handling of the reserve milk supply for this market, particularly as production increases seasonally.

When milk of producers is not needed at pool distributing plants, the most efficient method of handling it is by movement directly from producers' farms to milk manufacturing plants. As proponent indicated, volume of milk needed to be moved to milk manufacturing plants by diversion currently exceeds the volume which can be moved under the diversion limitation. This suspension is necessary to accommodate the handling of reserve milk supplies while enabling the dairy farmers involved to retain producer status.

Suspension of the provisions listed in 4 and 5 above was requested by a cooperative operating a pool supply plant located in Faribault, Minn. Suspension will render inoperative the present order provisions requiring mandatory Class I classification of milk transferred to a nonpool plant located 400 miles or more from the nearer of Kansas City or Topeka. The cooperative operates a nonpool cheese manufacturing plant at Pine Island, Minn., located 427 miles from Kansas City. It also operates another supply plant located at Pine Island that it presently pooled under the Southeastern Minnesota-Northern Iowa order. The cooperative states, however, that it intends to qualify the latter plant for pooling under the Kansas City order.

The cooperative requests suspension of the order provisions in order that its milk in excess to its fluid milk outlets in Kansas City may be moved to the nonpool cheese manufacturing plant at Pine Island from both the Faribault supply plant and the Pine Island supply plant, and still be classified and priced as Class III milk under the Kansas City order. Without suspension, such milk would be classified and priced as Class I milk, although used in the production of a manufactured dairy product.

Suspension of the 400-mile diversion limitation is necessary to accommodate the orderly disposition of seasonally increased reserve milk supplies, particularly since manufacturing plants near the farms of some producers now supplying the market are located in Minnesota.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that a seasonal increase in supplies of producer milk necessitates emergency action by suspension pending amendatory action based on evidence received at a hearing scheduled for December 15, 1970. This suspension will facilitate the continued pooling of producer milk associated with the market, and will accommodate the efficient disposal of reserve milk supplies into manufactured dairy product uses.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (35 F.R. 17188, 17554, and 17789). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective November 1, 1970.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of November 1970 through January 1971.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1970.

Signed at Washington, D.C., on November 30, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-16281; Filed, Dec. 3, 1970; 8:48 a.m.]

[Milk Order Nos. 121, 126; Dockets Nos. AO-364-A3 and AO-231-A35]

PART 1121—MILK IN SOUTH TEXAS MARKETING AREA

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Amending Orders

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than December 1, 1970. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued October 7, 1970 (35 F.R. 16000), and the decision of the Assistant Secretary containing all

amendment provisions of this order was issued November 27, 1970. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective December 1, 1970, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 533(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the South Texas and North Texas marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1121.53 is revised as follows:

§ 1121.53 Location adjustments to handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, and for other source milk for which Class I location adjustment credit is applicable, the price specified in § 1121.51(a) shall be reduced 1.5 cents per 10 miles of distance or fraction thereof that such plant is located from the Houston city hall by shortest hard-surfaced highway distance as determined by the market administrator: *Provided,* That the location adjustment at a plant located in Gregg, Harrison, or Smith Counties, Tex., shall be minus 30 cents and that the location adjustment pursuant to this paragraph for any plant located in Zone I as defined in the North Texas order, Part 1126, shall not result in a price less than the applicable Class I price at such plant location pursuant to the North Texas order.

(b) For that milk which is received from producers at a pool plant which is beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and south of the northern boundaries of the Texas counties of Matagorda, Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, and for other source milk for which a Class I location adjustment is applicable, the price specified in § 1121.51(a) shall be increased by any amount by which such price is less than the applicable Class I price at the same location pursuant to Part 1130 regulating the handling of milk in the Corpus Christi marketing area.

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of receipts at such plant from producers and cooperative associations pursuant to § 1121.12(d), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price, and then in sequence to plants having a lower Class I price beginning with the plant at which the highest Class I price would apply.

2. Section 1126.53 is revised as follows:

§ 1126.53 Location adjustments to handlers.

(a) For that milk which is received from producers at a pool plant outside the marketing area or Bowie or Cass Counties, Tex., or the city of Texarkana, Ark., and 110 miles or more from the city hall in Dallas, Tex., and which is classified as Class I milk subject to the limitation of paragraph (c) of this section and for other source milk for which a Class I location adjustment credit is applicable, the price specified in § 1126.51(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the Dallas city hall by shortest hard-surface highway distance as determined by the market administrator;

(b) For that milk which is received from producers at a pool plant within Zone II, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section and for other source milk for which a Class I location adjustment is applicable, the price shall be the Zone I Class I price plus any amount by which the applicable Class I price at such location pursuant to Part 1121 regulating the handling of milk in the South Texas marketing area exceeds the Zone I Class I price; and

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of receipts at such plant from producers and cooperative associations pursuant to § 1126.12 (c) and (d), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such as assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price and then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

3. Section 1126.55 is revised as follows:

§ 1126.55 Pricing zones.

(a) *Zone I.* Zone I shall include all territory within the following Texas counties in the marketing area:

Bosque.	Hood.
Cooke.	Hopkins.
Collin.	Hunt.
Dallas,	Johnson.
Delta.	Kaufman.
Denton.	Lamar.
Ellis.	Limestone.
Erath.	Navarro.
Fannin.	Parker.
Freestone.	Rockwall.
Grayson.	Somervell.
Hill.	Tarrant.

(b) *Zone II.* Zone II shall include all territory in the marketing area outside of Zone I and all territory in Bowie and Cass Counties, Tex., and the city of Texarkana, Ark.

4. In § 1126.91 paragraph (b) is revised as follows:

§ 1126.91 Butterfat and location differentials to producers.

* * * * *

(b) *Location adjustments.* (1) In making payments to producers pursuant to § 1126.90 (a) or (c) the applicable uniform price computed pursuant to § 1126.72 to be paid for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rate set forth in § 1126.53.

(2) For purposes of computation pursuant to §§ 1126.93 and 1126.94 the uniform prices shall be adjusted at the rates set forth in § 1126.53 applicable at the location of the nonpool plant from which the milk was received.

5. In § 1126.13 *Producer,* paragraph (a) (2) is revised to read as follows:

§ 1126.13 Producer.

(a) * * *

(2) Diverted by a handler for his account from a pool plant to a nonpool plant on any day during the months of January through July and on not more than half of the days of delivery during any other month. Such diverted milk

shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1970.

Signed at Washington, D.C., on November 30, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-16282; Filed, Dec. 3, 1970; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Elimination of References to Notes and Applications

1. Effective immediately, Part 201 is amended in the following respects:

Paragraph (c) of § 201.2 is amended to read as follows:

§ 201.2 Advances to member banks.

* * * * *

(c) *Advances on other security under section 10(b) of the Federal Reserve Act.* Any Federal Reserve Bank may make advances, under authority of section 10(b) of the Federal Reserve Act, to any of its member banks if secured to the satisfaction of such Federal Reserve Bank regardless of whether the collateral offered as security conforms to eligibility requirements under other provisions of this Part. The rate on advances made under the provisions of this paragraph shall in no event be less than one-half of 1 percent per annum higher than the highest rate applicable to discounts for member banks under the provisions of sections 13 and 13a of the Federal Reserve Act in effect at such Federal Reserve Bank. Such an advance must be repayable either (1) on a definite date not more than 4 months after the date of such advance, or (2) at the option of the Reserve Bank on or before a definite date not more than 4 months after the date of such advance.

Paragraph (a) of § 201.4 is amended to read as follows:

§ 201.4 General requirements as to advances and discounts.

(a) *Representations by member banks.* A member bank requesting Reserve Bank credit shall be deemed to represent and guarantee (1) that it is not acting as the medium or agent of a nonmember bank in receiving credit from a Reserve Bank except in accordance with the provisions of this part, and (2) that, except as to credit granted under § 201.2(c), as long as the credit is outstanding no obligor on paper tendered as collateral or for discount will be indebted to it in an amount exceeding the limitations in section 5200 of the Revised Statutes, which for this purpose shall be deemed to apply to State member as well as national banks.

* * * * *

2a. The purpose of these amendments is to facilitate a simplification of procedures with respect to extensions of Reserve Bank credit by elimination of regulatory language that implies that a formal written application must be submitted by a member bank in connection with each borrowing from a Reserve Bank and that a promissory note must be executed in connection with each such borrowing. The amendments are essentially of a procedural and technical nature and reflect no change in the Federal Reserve System's general credit and monetary policies.

b. These amendments were adopted by the Board without following the procedures prescribed in section 553 of title 5, United States Code, relating to notice, public participation, and deferred effective date, since notice and public participation would have been unnecessary and would have served no useful purpose and since the amendments relieve restrictions in present regulations of the Board.

By order of the Board of Governors, November 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-16307; Filed, Dec. 3, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9486; Amdt. Nos. 21-37, 37-27]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

Reporting Requirements for Manufacturers; Failures, Malfunctions, and Defects

The purpose of these amendments to Parts 21 and 37 of the Federal Aviation Regulations is to permit the first report under §§ 21.3 and 37.17 to be made after January 3, 1971.

As issued on November 24, 1970, effective November 30, 1970 (35 F.R. 18187), §§ 21.3 and 37.17 require a holder of a type certificate (including a supplemental type certificate), of a Parts Manufacturer Approval (PMA), or a TSO authorization, or the licensee of a type certificate, to report to the FAA any failure, malfunction, or defect in any product manufactured by it that it determines has resulted in specified occurrences. The General Aviation Manufacturers Association, Inc. (GAMA) has requested that the FAA delay compliance with the reporting requirements for 30 days to permit the manufacturers time in which to establish the necessary procedures for compliance with those requirements. In view of the representations made by GAMA, the FAA agrees that the persons covered by §§ 21.3 and 37.17 should not be required to make the first report until after January 3, 1971.

Since these amendments grant relief by extending the date for compliance with a new requirement and impose no additional burden on any person, I find that notice and public procedures hereon are not necessary, and these amendments may be made effective immediately.

In consideration of the foregoing, Parts 21 and 37 of the Federal Aviation Regulations are amended, effective December 4, 1970, as follows:

1. Part 21 is amended by amending paragraphs (a) and (b) of § 21.3 to read as follows:

§ 21.3 Reporting of failures, malfunctions, and defects.

(a) After January 3, 1971, except as provided in paragraph (d) of this section, the holder of a Type Certificate (including a Supplemental Type Certificate), or a Parts Manufacturer Approval (PMA), or the licensee of a Type Certificate shall report any failure, malfunction, or defect in any product or part manufactured by it that it determines has resulted in any of the occurrences listed in paragraph (c) of this section.

(b) After January 3, 1971, the holder of a Type Certificate (including a Supplemental Type Certificate), or a Parts Manufacturer Approval (PMA), or the licensee of a Type Certificate shall report any defect in any product or part manufactured by it that has left its quality control system and that it determines could result in any of the occurrences listed in paragraph (c) of this section.

* * * * *

2. Part 37 is amended by amending paragraphs (a) and (b) of § 37.17 to read as follows:

§ 37.17 Reporting of failures, malfunctions, and defects.

(a) After January 3, 1971, except as provided in paragraph (d) of this section, each manufacturer holding a TSO authorization under this part, shall report any failure, malfunction, or defect in any article manufactured by it that it determines has resulted in any of the occurrences listed in paragraph (c) of this section.

(b) After January 3, 1971, each manufacturer holding a TSO authorization under this part, shall report any defect in any article manufactured by it that has left its quality control system and that it determines could result in any of the occurrences listed in paragraph (c) of this section.

* * * * *

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1423, and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c))

Issued in Washington, D.C., on December 1, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-16378; Filed, Dec. 3, 1970; 8:53 a.m.]

[Docket No. 70-CE-19-AD; Amdt. 39-1114]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 177 Series Airplanes

Correction

In F.R. Doc. 70-15965 appearing at page 18189 in the issue of Saturday, November 28, 1970, the Airworthiness Docket No. was inadvertently omitted. It should read as set forth above.

[Docket No. 70-CE-20-AD; Amdt. 39-1120]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65, 65-80, 65-A80, and 65-B80 Airplanes

As a result of recent FAA requirements, fatigue analyses and tests conducted by various manufacturers and because of comparable stress levels of Beech Models 65, 65-80, 65-A80 and 65-B80 airplanes, it has been determined that certain components of the wing structure on these model airplanes have a limited fatigue life. Fatigue cracks in any of these components could result in an unsafe condition. To identify possible fatigue cracks, the manufacturer has issued Beechcraft Service Instruction No. 0393-018, pertaining to the above mentioned Beech model airplanes, which provide data for additional inspection openings in the wing and requires repetitive visual, eddy current and dye penetrant inspections of the wing structure. The Service Instruction states that cracks found during any of the inspections in certain specified areas require replacement of affected parts. In the interest of safety and in order to make certain of the requirements of Beechcraft Service Instruction No. 0393-018 mandatory, an airworthiness directive is being issued requiring that within the next 100 hours' time in service after the effective date of the AD, Beech Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180) and 65-B80 (Serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service, or upon accumulation of 5,000 hours' time in service; Beech Models 65-80, 65-A80 (Serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service, or upon accumulation of 3,000 hours' time in service, must comply with said Service Instruction. The AD will further require written notification to the Chief, Engineering and Manufacturing Branch, FAA, Central Region, of all cracks found during the inspections if located in the areas designated in the Service Instruction.

As a result of tests and further evaluation currently being made by the manufacturer, the inspection periods and intervals specified in the AD may be increased. In this event it will be necessary to issue additional amendments to the AD to reflect these changes.

Since immediate adoption of this AD is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this rule effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180) and 65-B80 (Serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service; and Models 65-80, 65-A80 (Serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service.

Compliance: Required as indicated.

To detect cracking of certain wing center section and other wing panel front spar carry through structural components, within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, accomplish the following:

(A) On Beech Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180) and 65-B80 (Serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service, or upon accumulation of 5,000 hours' time in service; and Beech Models 65-80, 65-A80 (Serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service or upon accumulation of 3,000 hours' time in service, and thereafter on all aircraft listed in this AD at intervals not to exceed 100 hours, visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(1) If wing panel skin cracks are found at the most outboard screw hole, as indicated in Figure 1 of Beechcraft Service Instruction No. 0393-018, the paragraphs B and F inspections must be performed thereafter at not more than 250-hour intervals, and, the paragraph D inspection interval must be reduced to not more than 500 hours.

(B) On Beech Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180), 65-B80 (Serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service or upon accumulation of the first 5,000 hours' time in service, and Beech Models 65-80, 65-A80 (Serial Nos. LD-1 through LD-244) airplanes with 3,000 hours' time in service, or upon accumulation of the first 3,000 hours' time in service, and thereafter on all aircraft listed in this AD, at intervals not to exceed 500 hours, except as noted in paragraph A(1), inspect by visual and dye penetrant methods, the right and left lower forward inboard and outboard wing attachment fittings for cracks in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(C) If fatigue cracks are found in either wing attach fitting during the inspections required by paragraph B, prior to further flight:

(1) An all aircraft, both right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings must be replaced with new parts in accordance with the procedures, limitations and reinspection intervals specified in Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(2) On Beech Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180), 65-80 and 65-A80 (Serial Nos. LD-1 through LD-244) airplanes, the inspection intervals for the structural components specified in Paragraph D must be reduced to 500 hours and,

(3) On Beech Models 65-B80 (Serial Nos. LD-270 and up) airplanes the wing center section lower forward spar cap and fittings must be replaced with new parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(4) On Beech Models 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180), 65-80, and 65-A80 (Serial Nos. LD-1 through LD-244) airplanes, after one replacement of the assemblies listed in paragraph C(1), replace the wing center section lower forward spar cap and fittings with new parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(D) On Beech Model 65 (Serial Nos. L-1, L-2, L-6, LF-7, LF-8, and LC-1 through LC-180) airplanes with 5,000 or more hours' time in service or upon accumulation of the first 5,000 hours' time in service and thereafter at intervals not to exceed 1,000 hours, except as noted in paragraph A(1), inspect the structural components set forth below and in Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, by visual, eddy current and dye penetrant methods, as specified in the Service Instructions. The structural components to be inspected are as follows:

(1) Lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section (outboard of each main gear wheel well).

(2) Lower forward spar cap in each main gear wheel well.

(3) Lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well.

(4) Lower surface of the lower forward spar cap between each nacelle and the fuselage.

(5) The two 3/16-inch rivet holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

(6) The lower forward spar cap within the fuselage.

(7) The centerline skin splice in the area between the forward and aft center section spars, and the fuselage bulkhead along the centerline between the forward and aft center section spars. If fuselage bulkhead cracks are found in this area, they must be repaired in accordance with said Service Instruction prior to return to service.

(E) On Beech Models 65-80, 65-A80 (Serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service or upon accumulation of the first 3,000 hours' time in service and thereafter at intervals not to exceed 1,000 hours except as noted in paragraph A(1), inspect the structural components as required in paragraph D.

(F) On Beech Model 65-B80 (Serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service or upon accumulation

of the first 5,000 hours' time in service and thereafter at intervals not to exceed 500 hours, except as noted in paragraph A(1), inspect the structural components as required in paragraph D.

(G) If cracks are found during the inspections required by paragraphs D, E, and F above, except cracks located in the areas specified in paragraph D(7), prior to further flight, replace the wing center section lower forward spar cap, both the right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings with new production parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(H) Aircraft Logbook entries must be made and notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, of the location and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. (Report approved by the Bureau of the Budget under BOB No. 04-R0174.)

(I) On all aircraft, regardless of time in service, replacement of parts required by paragraphs D, E, F, and G will permit the owner/operator to establish new initial inspection times in compliance with paragraphs A, B, and D.

(J) Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: The eddy current inspections required by this AD should be performed by certificated personnel trained and qualified in the operation of eddy current equipment. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD should be performed by certificated personnel or facilities properly equipped to perform such repairs.

This amendment becomes effective December 5, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; Sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 25, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-16259; Filed, Dec. 3, 1970; 8:46 a.m.]

[Docket No. 70-CE-21-AD; Amdt. 39-1121]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 65-90 Airplanes

As a result of recent FAA requirements fatigue analyses and tests conducted by various manufacturers, and because of comparable stress levels of Beech Model 65-90 airplanes, it has been determined that certain components of the wing structure on these model airplanes may have a limited fatigue life. Fatigue cracks in any of these components could result in an unsafe condition. To identify possible fatigue cracks, the manufacturer has issued Beechcraft Service Instruction No. 0394-018, pertaining to Beech Models 65-90 airplanes, which provides data for additional inspection openings in the wing and requires repetitive visual, eddy current and dye penetrant inspections of the wing structure. The Service Instruction states that cracks found during any of the inspections in certain specified areas require replacement of the affected part. In the interest of safety and in order to make certain of the requirements of Beechcraft Service Instruction No. 0394-018 mandatory, an airworthiness directive is being issued requiring that, within the next 100 hours' time in service after the effective date of the AD, Beech Model 65-90 (Serial Nos. LJ-1 through LJ-67) airplanes with 5,000 or more hours' time in service, or upon accumulation of 5,000 hours' time in service, must comply with said Service Instruction. The AD will further require written notification to the Chief, Engineering and Manufacturing Branch, FAA, Central Region, of all cracks found during the inspections if located in the areas designated in the Service Instruction.

As a result of tests and further evaluation currently being made by the manufacturer, the inspection periods and intervals specified in the AD may be increased. In this event it will be necessary to issue additional amendments to the AD to reflect these changes.

Since immediate adoption of this AD is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this rule effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administration (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD:

BEECH. Applies to Model 65-90 (Serial Nos. LJ-1 through LJ-67) airplanes with 5,000 or more hours' time in service.

Compliance: Required as indicated.

To detect any cracking of certain wing center section and other wing panel front spar carry through structural components, within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, accomplish the following:

(A) Visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks in accordance with Beechcraft Service Instruction No. 0394-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, and thereafter repeat the inspection at intervals not to exceed 100 hours' time in service.

(1) If wing panel skin cracks are found at the most outboard screw hole as noted in Figure 1 of Beechcraft Service Instruction No. 0394-018, the wing structure must be inspected in accordance with paragraphs B, D, and E of this AD prior to returning the aircraft to service. In addition, if a skin crack is found at the most outboard screw hole, as indicated in said Figure 1, the paragraphs B and E inspections must be performed at intervals of not more than 250 hours, and the paragraph D inspection must be performed at intervals of not more than 500 hours.

(B) Inspect by visual and dye penetrant methods, the right and left lower forward inboard and outboard wing attachment fittings for cracks in accordance with Beechcraft Service Instruction No. 0394-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, and thereafter repeat the inspection at intervals not to exceed 500 hours' time in service, except as noted in paragraph A(1).

(C) If fatigue cracks are found in either wing attach fitting during the inspections required by paragraph B, prior to further flight—

(1) Both right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings must be replaced with new parts in accordance with the procedures, limitations and reinspection intervals specified in Beechcraft Service Instruction No. 0394-018, or later revision approved by the FAA.

(2) After one replacement of the assemblies listed in paragraph C(1), replace the wing center section lower forward spar cap and fittings with new parts in accordance with Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(D) Inspect the structural components set forth below and in Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, by visual, eddy current and dye penetrant methods, as specified in the Service Instructions, and thereafter repeat the inspection at intervals not to exceed 1,000 hours' time in service, except as noted in paragraphs A(1) and D(7). The structural components to be inspected are as follows:

(1) Lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section (outboard of each main gear wheel well).

(2) Lower forward spar cap in each main gear wheel well.

(3) Lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well.

(4) Lower surface of the lower forward spar cap between each nacelle and the fuselage.

(5) The four Jo-bolt holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

(6) The lower forward spar cap within the fuselage.

(7) The centerline skin splice in the area between the forward and aft center section spars, and the fuselage formers along the centerline between the forward and aft center section spars. If fuselage former cracks are found in this area, they must be repaired in accordance with said Service Instruction prior to return to service and the 1,000-hour inspection interval must be reduced to not more than 500 hours.

(E) If cracks are found during the inspections required by paragraph D, except cracks located in the areas specified in paragraph D(7), prior to further flight, replace the wing center section lower forward spar cap, both the right and left outer wing panel lower front spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings with new production parts in accordance with Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(F) Aircraft Logbook entries must be made and notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, of the location

and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. (Report approved by the Bureau of the Budget under BOB No. 04–R0174.)

(G) Replacement of parts required by paragraphs C and E will permit the owner/operator to establish new initial inspection times in compliance with paragraphs A and B.

(H) Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: The eddy current inspections required by this AD should be performed by certificated personnel trained and qualified in the operation of eddy current equipment. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD should be performed by certificated personnel or facilities properly equipped to perform such repairs.

This amendment becomes effective December 5, 1970.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 25, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70–16260; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airworthiness Docket No. 70–WE–38–AD; Amdt. 39–1115]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

Amendment 39–1105 (35 F.R. 17398), AD 70–23–3, requires the installation of a placard or the establishment of a procedure to check the pilot instrument panel security on Boeing Model 747 airplanes. After issuing Amendment 39–1105, the agency determined that the installation of secondary safety latches on the instrument panel constitutes a satisfactory terminating action. Therefore, this AD is being amended to provide for a terminating action.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authroity delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–1105 (35 F.R. 17398), AD 70–23–3 is amended by adding the new paragraph at the end thereof:

As an alternative action to (1), (2), or (3), secondary safety latches may be installed in accordance with Boeing Service Bulletin 31–2005, dated November 13, 1970, or later FAA-approved revision. Accomplishment of this modification will constitute of itself compliance with this AD.

This amendment becomes effective December 4, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 23, 1970.

JAMES V. NIELSEN,
Acting Director, FAA Western Region.

[F.R. Doc. 70–16261; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airworthiness Docket No. 70–WE–46–AD; Amdt. 39–1116]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 747 and Pratt & Whitney JT9D

Reports of unrecoverable engine surging during thrust reversal while landing have been received on Boeing Model 747 airplanes. In two cases, fires in the engine tail pipe resulted, and, in the course of emergency passenger evacuation, injuries were sustained by the evacuees. While the thrust reverser system is not required by the airworthiness or operational regulations, manufacturers have installed thrust reversers to assist the braking system in reducing air speed during aborted takeoffs and landings. The FAA considers that an engine which may become inoperative or malfunction due to normal use under varying conditions normally incurred in service, including the use of nonrequired equipment, indices a potential safety hazard.

Since this condition is likely to occur in other airplanes of this type, an Airworthiness Directive is being issued to require modifications of the engine bleed control system to reduce the possibility of engine surge and stall during thrust reversal. The Boeing Co. and United Aircraft Corp., and Pratt and Whitney Aircraft Division, have modified the engine bleed control system to provide improved engine operating margins during reverse thrust and to allow effective reverser operation during the initial portion of the landing. The airplane flight manual has been revised to describe the thrust reverser operating procedures that are to be used with the modified bleed control system installed to assure stable engine operation throughout the entire thrust reverse cycle. Accordingly, the AD requires modification of the engine and airplane in accordance with the applicable Pratt and Whitney and Boeing service bulletins. In addition, the AD requires utilization of the associated airplane flight manual revision. Since the revision includes only normal operating procedures, the affected operators may elect to adopt alternate procedures as experience with the new system is gained. Operable thrust reversers at all times is not required by the airworthiness directive.

The compliance time for the modification, as well as the incorporation of airplane flight manual material has been established by the administration on the basis of the safety considerations together with the objective of providing operators sufficient lead time to schedule compliance with a minimum burden. To prescribe the modifications and airplane flight manual revisions required by this AD under the usual notice and public procedures followed by the administration within the time the administration has determined is required in the interest of safety, would necessarily result in a reduction of the compliance time for the modifications and airplane flight manual revisions required by this AD. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the AD. Therefcre, accomplishment of the modifications and airplane flight manual revisions required by this AD within the time the administration has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective 30 days after publication in the FEDERAL REGISTER. However, interested persons are invited to submit such written data, views or arguments as they may desire relative to this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received before the effective date will be considered by the Director, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Boeing 747 and Pratt and Whitney JT9D. Applies to Boeing Model 747 Series Airplanes and Pratt and Whitney Aircraft Model JT9D Series Engines.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless previously accomplished.

To reduce the possibility of engine surge during thrust reversal, accomplish the following:

(a) Modify the engine Air-Automatic Deceleration System in accordance with Pratt and Whitney Aircraft Service Bulletin No. 2841, dated August 21, 1970, or later FAA-approved revision or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) Modify the engine controls mixing box, airplane electrical wiring system, engine cowl panel, bleed duct bracket and pressure regulator vent line in accordance with the Boeing Company Service Bulletin No. 75–2002, dated September 25, 1970, or later FAA-approved revision or an equivalent method approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

(c) Upon completion of the work described in (a) and (b) on all four engines, reverse

thrust may be used to landing roll speeds as noted in the FAA approved Boeing 747 Airplane Flight Manual Normal Operating Procedures entitled *"RABS Procedure (Optional)"*, or an alternate procedure approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

Until such time as the modification of all four engines on an aircraft is accomplished, install the placard described in Boeing Service Bulletin No. 78-2016, dated November 10, 1970, and referenced at paragraph C(iv), of Boeing Service Bulletin No. 75-2002, dated September 25, 1970. The placard may be removed after the modifications in (a) and (b) are accomplished.

This amendment becomes effective January 5, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 24, 1970.

JAMES V. NIELSEN,
Acting Director, Western Region.

[F.R. Doc. 70-16262; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airworthiness Docket No. 70-WE-41-AD; Amdt. 39-1122]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-8 Series Airplanes

The wing spoiler system operated by the spoiler handle of the DC-8 series airplanes are intended for use only when the airplane is on the ground. The agency has received reports that these spoilers are also being used in flight. One accident has occurred in which the use of these spoilers during the approach to landing was a possible cause. Since the improper use of wing spoilers is likely to exist or develop in other airplanes of the same type, an airworthiness directive is being issued requiring that the wing spoiler control in the cockpit be placarded to prohibit deployment in flight and that the airplane flight manual limit the spoilers to ground operations only.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. DC-8 Airplanes. Applies to airplanes certificated in all categories equipped with Mark II and Mark III antiskid system installation.

Compliance required within the next 50 hours' time in service after effective date of this AD, unless already accomplished.

To prevent misuse of ground spoilers, accomplish the following:

(1) Add to Limitations Section of the FAA approved Airplane Flight Manual, the following Ground Spoiler Operation Limitation:

DO NOT EXTEND GROUND SPOILERS DURING FLIGHT

(2) Install a placard on the pedestal immediately below the word "spoiler" to read: "Deployment in Flight Prohibited," or an equivalent installation approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective December 5, 1970.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 25, 1970.

JAMES V. NIELSEN,
Acting Director, FAA Western Region.

[F.R. Doc. 70-16263; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SW-55]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Bay City, Tex., transition area.

On October 6, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 15647) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Bay City, Tex.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. A comment was received from representatives of the Bay City Airport, Inc. This airport, which is approximately 4½ miles west of the Bay City Municipal Airport, would lie within the 5-mile radius of the proposed 700-foot transition area. It was stated that the transition area, as proposed, would unduly restrict their VFR flying activities and aircraft executing the proposed approach procedure would descend almost into the traffic pattern altitude at Bay City Airport.

In consideration of the comments received, the following actions were effected:

1. The final approach was relocated to the 23-mile DME fix in lieu of the 22-mile DME fix. This moves the fix east of the Bay City Airport and nearer the Bay City Municipal Airport.

2. The crossing altitude at the final approach fix of 1,600 feet MSL was retained at the relocated fix. This altitude is approximately 1,550 feet AGL and well above the traffic pattern altitude at the Bay City Airport.

3. The Bay City Airport and the area within a 1-mile radius of the airport will be specifically excluded from the Bay City 700-foot transition area.

In view of these actions, representatives of the Bay City Airport advised they would not object to the designation of the Bay City, Tex., 700-foot transition area.

Relocation of the final approach will no longer require an extension to the transition area as originally proposed. This action and the exclusion of the Bay City Airport from the transition area will lessen the extent of controlled airspace and correspondingly lessen the burden on the public. Additional notice of these minor airspace changes is, therefore, not considered necessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., February 4, 1971, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

BAY CITY, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bay City Municipal Airport (lat. 28°58'23" N., long. 95°51'48" W.), excluding that portion within a 1-mile radius of Bay City Airport (lat. 28°58'41" N., long. 95°50'22" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on November 23, 1970.

GEORGE W. IRELAND,
Acting Director, Southwest Region.

[F.R. Doc. 70-16253; Filed, Dec. 3, 1970; 8:45 a.m.]

[Airspace Docket No. 70-SO-71]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On October 16, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 16258), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Lawrenceburg, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, it was noted that the extension predicated on the 349° bearing from Lawrenceburg RBN was erroneously described. It is necessary to alter the description to redescribe this extension. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 4, 1971, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

LAWRENCEBURG, TENN.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceburg Municipal Airport (lat.

35°14'00" N., long. 87°15'30" W.); within 9.5 miles west and 4.5 miles east of the 349° bearing from the Lawrenceburg RBN (lat. 35°15'51" N., long. 87°15'56" W.), extending from the RBN to 18.5 miles north; excluding the portion within the Mount Pleasant transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 24, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-16254; Filed, Dec. 3, 1970; 8:45 a.m.]

[Airspace Docket No. 70-SW-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Bridgeport, Tex., transition area.

On October 10, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 16005) stating the Federal Aviation Administration proposed to alter this transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 4, 1971, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Bridgeport, Tex., transition area is amended to read:

BRIDGEPORT, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lake Bridgeport Airport (lat. 33°10' 30" N., long. 97°49'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on November 23, 1970.

GEORGE W. IRELAND,
Director, Southwest Region.

[F.R. Doc. 70-16255; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SO-70]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones

On October 13, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 16055), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Pensacola, Fla. (NAS Pensacola-Forrest Sherman Field and NAS Saufley Field), control zones.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, AL-736 VOR RWY 18 Instrument Approach Procedure to NAS Pensacola-Forrest Sherman Field was revised by raising the altitude over the final approach fix (NAS Saufley Field VOR) from 1,600 to 2,000 feet MSL; thus, eliminating the requirement for the extension predicated on NAS Saufley Field VOR 173° radial. It is necessary to alter the description to delete this extension. Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 4, 1971, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Pensacola, Fla. (NAS Pensacola-Forrest Sherman Field and NAS Saufly Field), control zones are amended to read:

PENSACOLA, FLA. (NAS PENSACOLA-FORREST SHERMAN FIELD)

Within a 5-mile radius of NAS Pensacola (Forrest Sherman Field) (lat. 30°21'15" N., long. 87°19'00" W.); within 3 miles each side of the 134° bearing from the NAS Pensacola LF RBN, extending from the 5-mile-radius zone to 8.5 miles southeast of the RBN; within 3 miles each side of the 174° bearing from the NAS Pensacola UHF RBN, extending from the 5-mile-radius zone to 8.5 miles south of the RBN; within 1.5 miles each side of the NAS Pensacola TACAN 235° radial, extending from the 5-mile-radius zone to 6.5 miles southwest of the TACAN.

PENSACOLA, FLA. (NAS SAUFLEY FIELD)

Within a 5-mile radius of NAS Saufley Field (lat. 30°28'15" N., long. 87°20'30" W.); within 3 miles each side of the 214° bearing from NAS Saufley RBN, extending from the 5-mile-radius zone to 8.5 miles southwest of the RBN; within 3 miles each side of the Saufley VOR 234° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VOR; excluding the portions within the Pensacola, Fla. (Municipal Airport and NAS Pensacola-Forrest Sherman Field), control zones. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 24, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-16256; Filed, Dec. 3, 1970; 8:46 a.m.]

[Airspace Docket No. 70-WE-71]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On October 7, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 15763) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Troutdale, Oreg., control zone.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted subject to the following change.

Add the following to the control zone description. "This control zone shall be effective from 0700 to 2300 hours, local time, daily."

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

Effective date. This amendment shall be effective 0901 G.m.t., February 4, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 23, 1970.

ARVIN O. BASNIGHT,
Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Troutdale, Oreg. control zone is amended to read as follows:

TROUTDALE, OREG.

Within a 3-mile radius of Troutdale Airport (latitude 45°33'00" N., longitude 122°23'50" W.), within 3 miles each side of the 119° bearing from the Lake LOM, extending from the Lake LOM to 8 miles south of the LOM, and that airspace bounded on the northeast by a line 3 miles northeast of and parallel to the 119° and 299° bearings from the Lake LOM, on the northwest by the 154° radial of the Portland VORTAC, and on the southeast by an arc of the 3-mile radius zone. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

[F.R. Doc. 70-16257; Filed, Dec. 3, 1970; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

CHANGE IN CHAPTER TITLE

To implement the provisions of Reorganization Plan No. 4 of 1970 (35 F.R.

15627), which was effective October 3, 1970, Chapter II of Title 50, Code of Federal Regulations, presently entitled "Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior" is retitled as "National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce."

This notice transfers the public regulations of the former Bureau of Commercial Fisheries to the new National Oceanic and Atmospheric Administration in the Department of Commerce to which its fisheries functions were transferred by the Reorganization Plan.

Appropriate changes in the text of obsolete titles and organizational references will be made by the Department of Commerce.

WALTER J. HICKEL,
Secretary of the Interior.

OCTOBER 26, 1970.

[F.R. Doc. 70-16309; Filed, Dec. 3, 1970; 8:50 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5101, 34-9010]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Publication of Information and Delivery of Prospectus by Broker-Dealers Prior to or After the Filing of a Registration Statement

The Securities and Exchange Commission has adopted rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 designed to establish standards for determining circumstances under which broker-dealers may publish certain information about an issuer which proposes to or has registered securities under the 1933 Act, and also to clarify a dealer's obligation to deliver prospectuses under section 4(3) of that Act, and the antifraud provisions of the 1934 Act. The Commission gave notice it proposed to adopt such rules on October 7, 1969, in Securities Act Release 5010 (34 F.R. 17035).

Information, opinions or recommendations by a broker-dealer about securities of an issuer proposing to register securities under the Securities Act of 1933 for a public offering or having securities so registered, may constitute an offer to sell such securities within the meaning of sections 2(3) and 5 of that Act, particularly when the broker-dealer is to participate in the distribution as an underwriter or selling group member. Publishing such information may result in a violation of section 5 of the Act.

It is the purpose of the adopted rules to provide guidance to broker-dealers and to alleviate such requirements where it appears that the purposes and policies of the Act will not be prejudiced while assuring that persons engaged in the distribution of a registered offering and their customers will be supplied with the disclosure afforded by the statutory prospectus.

Summary of Rules Adopted under the Securities Act of 1933:

Rule 135 (17 CFR 230.135). Amendments to this rule permit publishing a notice that an issuer proposes to make a cash offering of securities to be registered under the 1933 Act. The requirement that such notices be sent 60 days prior to the record date or the proposed date of the initial offering has been deleted. The language of the rule has been revised and simplified.

Rule 137 (17 CFR 230.137). This new rule is designed to clarify the status of dealers not participating in a distribution. It permits publication and distribution by a dealer in the regular course of business of information, opinions, or recommendations regarding securities of a reporting company which has filed or proposes to file a registration statement under the Act.

Rule 138 (17 CFR 230.138). New Rule 138 permits a broker-dealer participating in an offering of nonconvertible senior securities registered on Form S-7 (17 CFR 239.26) or S-9 (17 CFR 239.22) to publish opinions or recommendations concerning the issuer's common stock, and vice versa.

Rule 139 (17 CFR 230.139). New Rule 139 permits a broker-dealer participating in an offering to publish at regular intervals, as part of a comprehensive list of securities, opinions or recommendations concerning the issuer provided it is a reporting company. The opinion or recommendation, however, must not be given special prominence, and must not be more favorable than the last previous opinion distributed before the broker-dealer became a participant.

Rule 174 (17 CFR 230.174). The amendments to this rule eliminate the prospectus delivery requirement for dealers, other than participating dealers selling any unsold participation, during the 40- or 90-day period after the effective date of the registration statement or the commencement of the offering, whichever is later, with respect to sales of securities of issuers required to file reports under the Securities Exchange Act of 1934.

Summary of Rule Adopted under the Securities Exchange Act of 1934:

Rule 15c2-8 (17 CFR 240.15c2-8). This is a new rule under the Securities Exchange Act of 1934 relating to the distribution of preliminary and final prospectuses. The rule provides that a broker-dealer participating in a distribution must take reasonable steps to see to it that any person desiring a copy of a preliminary or final prospectus received a copy. Each salesman who is expected to offer the securities must receive a copy of the preliminary prospectus and, if he is expected to offer the securities after the effective date of the registration statement, he must receive a copy of the final prospectus. The managing underwriter must take reasonable steps to see that broker-dealers participating in the distribution receive a sufficient number of copies of the prospectus to comply with the rule and with section 5(b) of the Securities Act of 1933.

The text of new §§ 230.137, 230.138, 230.139, 240.15c2-8, of this chapter and of amended §§ 230.135 and 230.174 of this chapter are as follows:

§ 230.135 Notice of certain proposed offerings.

(a) For the purpose only of section 5 of the Act, a notice given by an issuer that it proposes to make a public offering of securities to be registered under the Act shall not be deemed to offer any securities for sale if such notice states that the offering will be made only by means of a prospectus and contains no more than the following additional information:

(1) The name of the issuer;

(2) The title, amount, and basic terms of the securities proposed to be offered, the amount of the offering, if any, to be made by selling security holders, the anticipated time of the offering and a brief statement of the manner and purpose of the offering without naming the underwriters;

(3) In the case of a rights offering to security holders of the issuer, the class of securities the holders of which will be entitled to subscribe to the securities proposed to be offered, the subscription ratio, the proposed record date, the approximate date upon which the rights are proposed to be issued, the proposed term or expiration date of the rights and the approximate subscription price, or any of the foregoing;

(4) In the case of an offering of securities in exchange for other securities of the issuer or of another issuer, the name of the issuer and the title of the securities to be surrendered in exchange for the securities to be offered, the basis upon which the exchange may be made, or any of the foregoing;

(5) In the case of an offering to employees of the issuer or to employees of any affiliate of the issuer, the name of the employer and class or classes of employees to whom the securities are proposed to be offered, the offering price or basis of the offering and the period during which the offering is to be made, or any of the foregoing; and

(6) Any statement or legend required by State law or administrative authority.

(b) Any notice contemplated by this section may take the form of a news release or a written communication directed to security holders or employees, as the case may be, or other published statement.

§ 230.137 Definition of "offers", "participates", or "participation" in section 2(11) in relation to certain publications by persons independent of participants in a distribution.

The terms "offers," "participates," or "participation" in section 2(11) of the Act shall not be deemed to apply to the publication or distribution of information, opinions or recommendations with respect to the securities of an issuer which is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 and has filed or proposes to file a registration statement under the Securities Act of 1933 if—

(a) Such information, opinions, and recommendations are published and distributed in the regular course of its business by a dealer which is not and does not propose to be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which the registration statement relates; and

(b) Such dealer receives no consideration, directly or indirectly, in connection with the publication and distribution of such information, opinions or recommendations from the issuer, a selling security holder or any member of the underwriting syndicate or dealer group or any other person interested in the securities to which the registration statement relates, and such information, opinions, or recommendations are not published or distributed pursuant to any arrangement or understanding, direct or indirect, with such issuer, underwriter, dealer, or selling security holder; provided, however, that nothing herein shall forbid payment of the regular subscription or purchase price of the document or other written communication in which such information, opinions or recommendations appear.

§ 230.138 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

(a) Where an issuer which meets all of the conditions for the use of Form S–7 [§ 239.26 of this chapter] or S–9 [§ 239.22 of this chapter] has filed or proposes to file a registration statement under the Act relating solely to a nonconvertible debt security or to a nonconvertible, nonparticipating preferred stock, publication, or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to common stock or to debt or preferred stock convertible into common stock of such issuer shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

(b) Where an issuer which meets all of the conditions for the use of Form S–7 (§ 239.26 of this chapter) has filed or proposes to file a registration statement under the Act relating solely to common stock or to debt or preferred stock convertible into common stock, the publication or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to a nonconvertible debt security, or to a nonconvertible nonparticipating preferred stock, shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

§ 230.139 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

Where an issuer which is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 has filed or proposes to file a registration statement under the Securities Act of 1933 relating to its securities, the publication or distribution by a dealer, in the regular course of its business, of information, an opinion or a recommendation with respect to the securities so registered or proposed to be registered shall not be deemed to constitute an offer for sale or offer to sell such securities for the purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of such securities if all of the following conditions exist:

(a) Such information, opinion or recommendation is contained in a publication which has for at least the past 2 years been distributed with reasonable regularity on an annual or other more frequent basis and each issue of which contains a comprehensive list of securities currently recommended by such dealer;

(b) Such information, opinion or recommendation is given no greater space or prominence in such publication than that given to other securities, and does not include projections of sales or earnings beyond the issuer's current fiscal year or following fiscal year if within the last 6 months of the current fiscal year;

(c) An opinion or recommendation at least as favorable as to the security was published by the dealer in either the last publication of the same character or in a subsequent publication of a different character, which was previously distributed by such dealer.

§ 230.174 Delivery of Prospectus by Dealers; Exemptions Under section 4(3) of the Act.

The obligations of a dealer (including an underwriter no longer acting as an underwriter in respect of the security involved in such transactions) to deliver a prospectus in transactions in a security as to which a registration statement has been filed taking place prior to the expiration of the 40- or 90-day period specified in section 4(3) of the Act after the effective date of such registration statement or prior to the expiration of such period after the first date upon which the security was bona fide offered to the public by the issuer or by or through an underwriter after such effective date, whichever is later, shall be subject to the following provisions:

(a) No prospectus need be delivered if the registration statement is on Form S–12 (§ 239.19 of this chapter) or S–13 (§ 239.25 of this chapter) unless registration of the deposited security is also required.

(b) No prospectus need be delivered if the issuer is subject, immediately prior to the time of filing the registration statement, to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934.

(c) Where a registration statement relates to offerings to be made from time to time no prospectus need be delivered after the expiration of the initial prospectus delivery period specified in section 4(3) of the Act following the first bona fide offering of securities under such registration statement.

(d) Notwithstanding the foregoing, the period during which a prospectus must be delivered by a dealer shall be:

(1) As specified in section 4(3) of the Act if the registration statement was the subject of a stop order issued under section 8 of the Act; or

(2) As the Commission may provide upon application or on its own motion in a particular case.

(e) Nothing in this section shall affect the obligation to deliver a prospectus pursuant to the provisions of section 5 of the Act by a dealer who is acting as an underwriter with respect to the securities involved or who is engaged in a transaction as to securities constituting the whole or a part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer or by or through an underwriter.

§ 240.15c2–8 Delivery of prospectus.

(a) It shall constitute a deceptive act or practice, as those terms are used in section 15(c)(2) of the Act, for a broker or dealer to participate in a distribution of securities with respect to which a registration statement has been filed under the Securities Act of 1933 unless he complies with the requirements set forth in paragraphs (b) through (g) of this section. For the purposes of this section, a broker or dealer participating in the distribution shall mean any underwriter and any member or proposed member of the selling group.

(b) Such broker or dealer shall take reasonable steps to furnish to any person who makes written request for a preliminary prospectus between the filing date and a reasonable time prior to the effective date of the registration statement to which such prospectus relates, a copy of the latest preliminary prospectus on file with the Commission. Reasonable

steps shall include receiving an undertaking by the managing underwriter or underwriters to mail such copy to the address given in the requests.

(c) Such broker or dealer shall take reasonable steps to comply promptly with the written request of any person for a copy of the final prospectus relating to such securities during the period between the effective date of the registration statement and the later of either the termination of such distribution, or the expiration of the applicable 40- or 90-day period under section 4(3) of the Securities Act of 1933. Reasonable steps shall include receiving an undertaking by the managing underwriter or underwriters to mail such copy to the address given in the requests. (The 40-day period referred to above shall be deemed to apply for purposes of this rule irrespective of the provisions of paragraph (b) of § 230.174 of this chapter.)

(d) Such broker or dealer shall take reasonable steps (1) to make available a copy of the preliminary prospectus relating to such securities to each of his associated persons who is expected, prior to the effective date, to solicit customers' order for such securities before the making of any such solicitation by such associated persons and (2) to make available to each such associated person a copy of any amended preliminary prospectus promptly after the filing thereof.

(e) Such broker or dealer shall take reasonable steps to make available a copy of the final prospectus relating to such securities to each of his associated persons who is expected, after the effective date, to solicit customers orders for such securities prior to the making of any such solicitation by such associated persons, unless a preliminary prospectus which is substantially the same as the final prospectus except for matters relating to the price of the stocks, has been so made available.

(f) If the broker or dealer is a managing underwriter of such distribution, he shall take reasonable steps to see to it that all other brokers or dealers participating in such distribution are promptly furnished with sufficient copies, as requested by them, of each preliminary prospectus, each amended preliminary prospectus and the final prospectus to enable them to comply with paragraphs (b), (c), (d), and (e) of this section.

(g) If the broker or dealer is a managing underwriter of such distribution, he shall take reasonable steps to see that any broker or dealer participating in the distribution or trading in the registered security is furnished reasonable quantities of the final prospectus relating to such securities, as requested by him, in order to enable him to comply with the prospectus delivery requirements of section 5(b) (1) and (2) of the Securities Act of 1933.

(h) This section shall not require the furnishing of prospectuses in any state where such furnishing would be unlawful under the laws of such state: *Provided, however,* That this provision is not to be construed to relieve a broker or dealer from complying with the requirements of section 5(b) (1) and (2) of the Securities Act of 1933.

The foregoing action was taken pursuant to the Securities Act of 1933, particularly sections 4 and 19(a) thereof (15 U.S.C. 77d, 77s(a)), and the Securities Exchange Act of 1934, particularly sections 15(c)(2) and 23(a) thereof (15 U.S.C. 780(c)(2), 78w(a)). Such action shall become effective November 19, 1970, except that Rule 15c2-8 shall be effective with respect to registration statements under the Securities Act of 1933 which become effective after December 31, 1970.

By the Commission, November 19, 1970.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-16267; Filed, Dec. 3, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

Extension of Time for Complying With Policy Statement on Glycine in Food for Human Consumption

Section 121.12, promulgated in the FEDERAL REGISTER of May 13, 1970 (35 F.R. 7414), regarding the food additive status of glycine in food for humans, specified a period of 180 days after that date for manufacturers to reformulate food products for human use to eliminate added glycine and its salts or to bring such products into compliance with an authorizing food additive regulation.

The Commissioner of Food and Drugs has received requests for extension of such time (1) to permit continued marketing of artificial sweetener preparations containing glycine to deplete remaining stocks and (2) to provide for orderly processing of food additive petitions proposing the use of glycine after said 180 days.

The Commissioner concludes that extending such time to May 8, 1971, will involve no hazard to health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–88, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.12(b) is revised to read as follows:

§ 121.12 Glycine in food for human consumption; statement of policy.

* * * * *

(b) The Commissioner of Food and Drugs concludes that by May 8, 1971, manufacturers:

(1) Shall reformulate food products for human use to eliminate added glycine and its salts; or

(2) Shall bring such products into compliance with an authorizing food additive regulation. A food additive petition supported by toxicity data is required to show that any proposed level of glycine or its salts added to foods for human consumption will be safe.

* * * * *

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–88, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: November 24, 1970.

SAM D. FINE, *Associate Commissioner for Compliance.*

[F.R. Doc. 70-16304; Filed, Dec. 3, 1970; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Levamisole Hydrochloride

The Commissioner of Food and Drugs have evaluated new animal drug applications (39-357V, 42-740V, 42-837V) filed by American Cyanamid Co. proposing the safe and effective use of levamisole hydrochloride as an anthelmintic in drench or tablet form for the treatment of sheep and in drench concentrate for cattle. The applications are approved.

The Commissioner further concludes that the name of the drug previously referred to as *l*-tetramisole in §§ 135c.18 and 135g.63 (21 CFR 135c.18 and 135g.63) should be revised to levamisole hydrochloride and that its chemical name and indications for use should also be revised.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 135g are amended as follows:

1. Section 135c.18 is amended by revising the section heading and paragraph (a) and by amending items 1 and 2 in the table in paragraph (f) and adding new items 3 and 4 to said table, as follows:

§ 135c.18 Levamisole hydrochloride.

(a) *Chemical name.* (-)-2,3,5,6-Tetrahydro-6-phenylimidazo[2,1-*b*] thiazole monohydrochloride.

	Amount	Limitations	Indications for use
1. Levamisole hydrochloride:		For cattle, dissolve in water to provide 32 fluid ounces of drench solution and administer as a drench at ¾ ounce (0.385 gram) per 100 pounds of body weight as a single dose; or dissolve in water to provide 8.75 fluid ounces of concentrate solution and administer as a drench at 2 cubic centimeters (0.385 gram) per 100 pounds of body weight as a single oral dose by syringe; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 48 hours of treatment; not for use in dairy animals of breeding age; consult veterinarian before using in severely debilitated animals.	Anthelmintic effective against the following nematode infections: Stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*), and lungworms (*Dictyocaulus*).
2. Levamisole hydrochloride.		• • •	Do.
3. Levamisole hydrochloride.	4.68 grams per pocket.	For sheep, dissolve in 1 gallon (123 fluid ounces) of water and administer as a single drench at 1 ounce (0.385 gram) per 100 pounds of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 72 hours of treatment; consult veterinarian before using in severely debilitated animals	Anthelmintic effective against the following nematode infections: Stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia Nematodirus, Bunostomum Oesophagostomum, Chabertia*), and lungworms (*Dictyocaulus*).
4. Levamisole hydrochloride.	0.184 gram per tablet.	For sheep, administer one tablet for each 50 pounds of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 72 hours of treatment; consult a veterinarian before using in severely debilitated animals.	Do.

2. Section 135g.63 is revised to read as follows:

§ 135g.63 Levamisole hydrochloride.

A tolerance of 0.1 part per million is established for negligible residues of levamisole hydrochloride in the edible tissues of cattle and sheep.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 24, 1970.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[F.R. Doc. 70-16288; Filed, Dec. 3, 1970; 8:48 a.m.]

PART 148t—VIOMYCIN

Viomycin Sulfate

No comments were received in response to the notice published in the FEDERAL REGISTER of September 30, 1970 (35 F.R. 15245), proposing to make crystallinity a certification requirement for viomycin sulfate. Accordingly, the Commissioner concludes that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), § 148t.1 is amended by adding a new subdivision to paragraph (a)(1), by revising paragraph (a)(4)(i), and by adding a new subparagraph to paragraph (b), as follows:

§ 148t.1 Viomycin sulfate.

(a) • • •

(1) • • •

(ix) It is crystalline.

• • • • •

(4) • • •

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, toxicity, histamine, moisture, pH, identity, crystallinity.

• • • • •

(b) • • •

(9) Crystallinity. Proceed as directed in § 141.504(a) of this chapter.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 23, 1970.

H. E. SIMMONS,
Director, Bureau of Drugs.

[F.R. Doc. 70-16305; Filed, Dec. 3, 1970; 8:49 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

• • • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Alameda	Oakland	E 06 001 2489 01 through E 06 001 2489 04	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, City Hall, City of Oakland, 14th and Washington Sts., Oakland, CA 94612.	Dec. 4, 1970.
Do	Los Angeles	Rolling Hills Estates.	E 06 037 3092 01 through E 06 037 3092 03	do	City Office, 26349 Rolling Hills Rd., Rolling Hills Estates, CA 90274.	Do.
Do	Riverside	Riverside	E 06 065 3070 01 through E 06 065 3070 03	do	Public Works Department, City of Riverside, 3870 Mulberry St., Riverside, CA 92501.	Do.
Florida	Palm Beach	Tequesta	E 12 099 2982 01 E 12 099 2982 02	Department of Community Affairs, State of Florida, 599 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Office of the Village Manager, Village Hall, 357 Tequesta Dr., Tequesta, FL 33423.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Kentucky	Bell	Middlesboro	E 21 013 2219 01 E 21 013 2219 02	Division of Water, Kentucky, Department of Natural Resources, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Office of the City Clerk, City Hall, City of Middlesboro, North 20th St. and Lothbury Ave., Middlesboro, KY 40965.	Do.
Rhode Island	Newport	Newport	I 44 005 0150 03 I 44 005 0150 04	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, RI 02903. Rhode Island Insurance Department, Room 418, Westminster St., Providence, RI 02903.	Engineer's Office, City Hall, Newport, RI 02840.	Do.
Texas	Calhoun	Seadrift	I 48 057 6250 01 I 48 057 6250 02	Texas Water Development Board, 301 West Second St., Austin, TX 78711. State Board of Insurance, 1110 San Jacinto Ave., Austin, TX 78701.	City Hall, Post Office Box 443, Seadrift, TX 77979.	Do.
Do	Comal	New Braunfels	E 48 091 4870 01 through E 48 091 4870 04	do	Office of the Planning Director, City of New Braunfels, Post Office Box 644, New Braunfels, TX 78130.	Do.
Virginia	Wise	St. Paul	I 51 195 2160 02	Department of Conservation and Economic Development, Division of Water Resources, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Clerk's Office, Town Hall, St. Paul, VA 24283.	Do.
Wisconsin	La Crosse	La Crosse	E 55 063 2490 01 through E 55 063 2490 03	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 4802 Sheboygan Ave., Madison, WI 53081.	City Planning Department, Fifth Floor, City Hall, La Crosse, WI 54601.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 4, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-16242; Filed, Dec. 3, 1970; 8:45 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Alameda	Oakland	T 06 001 2480 01 through T 06 001 2480 04	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, City Hall, City of Oakland, 14th and Washington Sts., Oakland, CA 94612.	Dec. 4, 1970.
Do	Los Angeles	Rolling Hills Estates.	T 06 037 3092 01 through T 06 037 3092 03	do	City Office, 26340 Rolling Hills Rd., Rolling Hills Estates, CA 90274.	Do.
Do	Riverside	Riverside	T 06 065 3070 01 through T 06 065 3070 03	do	Public Works Department, City of Riverside, 3870 Mulberry St., Riverside, CA 92501.	Do.
Florida	Palm Beach	Tequesta	T 12 099 2982 01 T 12 099 2982 02	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Office of the Village Manager, Village Hall, 357 Tequesta Dr., Tequesta, FL 33458.	Do.
Kentucky	Bell	Middlesboro	T 21 013 2219 01 T 21 013 2219 02	Division of Water, Kentucky Department of Natural Resources, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Office of the City Clerk, City Hall, City of Middlesboro, North 20th St. and Lothbury Ave., Middlesboro, KY. 40965.	Do.
Rhode Island	Newport	Newport	H 44 005 0150 03 H 44 005 0150 04	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, RI 02903. Rhode Island Insurance Department, Room 418, Westminster St., Providence, RI 02903.	Engineer's Office, City Hall, Newport, RI 02840.	June 16, 1970.
Texas	Calhoun	Seadrift	H 48 057 6250 01 H 48 057 6250 02	Texas Water Development Board, 301 West Second St., Austin, TX 78711. State Board of Insurance, 1110 San Jacinto Ave., Austin, TX. 78701.	City Hall, Post Office Box 443, Seadrift, TX 77979.	Dec. 4, 1970.
Do	Comal	New Braunfels	T 48 091 4870 01 through T 48 091 4870 04	do	Office of the Planning Director, City of New Braunfels, Post Office Box 644, New Braunfels, TX 78130.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Virginia	Wise	St. Paul	H 51 195 2160 02	Department of Conservation and Economic Development, Division of Water Resources, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Clerk's Office, Town Hall, St. Paul, VA 24283.	June 16, 1970.
Wisconsin	La Crosse	La Crosse	T 55 063 2490 01 through T 55 063 2490 03	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 4802 Sheboygan Ave., Madison, WI 53701.	City Planning Department, Fifth Floor, City Hall, La Crosse, WI 54601.	Dec. 4, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 4, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-16243; Filed, Dec. 3, 1970; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7077]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Revision of Actuarial Tables and Interest Factor

On July 3, 1970, notice of proposed rule making with respect to the amendment of the Estate Tax Regulations (26 CFR Part 20) and the Gift Tax Regulations (26 CFR Part 25) to provide new tables of actuarial values was published in the FEDERAL REGISTER (35 F.R. 10862). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments so proposed are adopted subject to the changes set forth below:

PARAGRAPH 1. The heading and subparagraphs (1) and (3) of § 20.2031–7(a) as set forth in the notice of proposed rule making are revised.

PAR. 2. Paragraphs (a) (1), (3), and (e) of § 20.2031–10 as set forth in the notice of proposed rule making are revised.

PAR. 3. A table is added after table B in paragraph (f) of § 20.2031–10 as set forth in the notice of proposed rule making.

PAR. 4. Subparagraphs (1) and (3) of § 25.2512–5(a) as set forth in the notice of proposed rule making is revised.

PAR. 5. Paragraphs (a) (1), (3), and (e) of § 25.2512–9 as set forth in the notice of proposed rule making are revised.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved November 30, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

In order to provide for the use of a new interest rate in making computations as to the value of present and deferred interests and for the use of more recent mortality tables in the making of actuarial computations for purposes of the estate and gift taxes and to authorize the use of such provisions for income tax purposes (such as §§ 1.101–2(e)(1)(ii)(b)(3), 1.318–3(b), and 1.1563–3(b)(3)(i)), the Estate Tax Regulations (26 CFR, Part 20) under sections 2013 and 2031 of the Internal Revenue Code and the Gift Tax Regulations (26 CFR, Part 25) under section 2512 of the Internal Revenue Code are amended as set forth below:

PARAGRAPH 1. Paragraph (a) of § 20.2013–4 is amended by revising a cross-reference. The amended provision reads as follows:

§ 20.2013–4 Valuation of property transferred.

(a) For purposes of section 2013 and §§ 20.2013–1 to 20.2013–6, the value of the property transferred to the decedent is the value at which such property was included in the transferor's gross estate for the purpose of the Federal estate tax (see sections 2031, 2032, and the regulations thereunder) reduced as indicated in paragraph (b) of this section. If the decedent received a life estate or remainder or other limited interest in property included in the transferor's gross estate, the value of the interest is determined as of the date of the transferor's death on the basis of recognized valuation principles (see especially §§ 20.2031–7 and 20.2031–10). The application of this paragraph may be illustrated by the following examples:

* * * * *

PAR. 2. Section 20.2031–7 is amended by revising so much thereof as precedes subparagraph (2) of paragraph (a), and by adding new subparagraph (3) at the end of paragraph (a) thereof. The amended and revised provisions read as follows:

§ 20.2031–7 Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents dying on or before December 31, 1970.

(a) In general. (1) For estates of decedents dying on or before December 31, 1970, except as otherwise provided in this subparagraph, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. For estates of decedents dying after December 31, 1970, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under § 20.2031–10. The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent, is determined under § 20.2031–8. In the case of any provision under part 1 of this chapter (Income Tax Regulations) which requires a valuation to be made under this section or any subdivision thereof, such valuation shall be made under § 20.2031–10 if the date in respect of which such valuation is required to be made is after December 31, 1970. (See § 20.2042–1 with respect to insurance policies on the decedent's life.)

* * * * *

(3) In all examples set forth in this section, the decedent is assumed to have died on or before December 31, 1970.

PAR. 3. Immediately after § 20.2031–9 there are added the following new sections:

§ 20.2031–10 Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents dying after December 31, 1970.

(a) *In general.* (1) Except as otherwise provided in this paragraph, for estates of decedents dying after December 31, 1970, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent is determined under § 20.2031–8. The fair market value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 is its present value determined under § 1.664–4. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on such

date determined under § 1.664–4. The fair market value of interests in a pooled income fund, as defined in § 1.642(c)–5, is their value determined under § 1.642 (c)–6. (See § 20.2031–7 with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includable in estates of decedents dying on or before December 31, 1970; § 20.2042–1 with respect to insurance policies on the decedent's life.)

(2) The present value of an annuity, life estate, remainder or reversion determined under this section which is dependent on the continuation or termination of the life of one person is computed by the use of Table A(1) or A(2) in paragraph (f) of this section. Table A(1) is to be used when the person upon whose life the interest is based is a male and Table A(2) is to be used when such person is a female. The present value of an annuity, term for years, remainder or reversion dependent on a term certain is computed by the use of Table B in paragraph (f) of this section. If the interest to be valued is dependent upon more than one life or there is a term certain concurrent with one or more lives, see paragraph (e) of this section. For purposes of the computations described in this section, the age of a person is to be taken as the age of that person at his nearest birthday.

(3) In all examples set forth in this section, the decedent is assumed to have died after December 31, 1970.

(b) *Annuities*—(1) *Payable annually at end of year.* If an annuity is payable annually at the end of each year during the life of an individual (as, for example, if the first payment is due 1 year after decedent's death), the amount payable annually is multiplied by the figure in column 2 of Table A(1) or A(2), whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. If the annuity is payable annually at the end of each year for definite number of years, the amount payable annually is multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The application of this subparagraph may be illustrated by the following examples:

Example (1). The decedent received, under the terms of his father's will, an annuity of $10,000 a year payable annually for the life of his elder brother. At the time he died, an annual payment had just been made. The brother at the decedent's death was 40 years 8 months old. By reference to Table A(1) the figure in column 2 opposite 41 years, the number nearest to the brother's actual age, is found to be 12.9934. The present value of the annuity at the date of the decedent's death is, therefore, $129,934 ($10,000×12.9934).

Example (2). The decedent was entitled to receive an annuity of $10,000 a year payable annually throughout a term certain. At the time he died, an annual payment had just been made and five more annual payments were still to be made. By reference to Table B, it is found that the figure in column 2 opposite 5 years is 4.2124. The present value of the annuity is, therefore, $42,124 ($10,000×4.2124).

(2) *Payable at the end of semiannual, quarterly, monthly, or weekly periods.* If an annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods during the life of an individual (as for example if the first payment is due 1 month after the decedent's death), the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table A(1) or A(2), whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0148 for semiannual payments,
1.0222 for quarterly payments,
1.0272 for monthly payments,
1.0291 for weekly payments.

If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods for a definite number of years, the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The product so obtained is then multiplied by whichever of the above factors is appropriate. The application of this subparagraph may be illustrated by the following example:

Example. The facts are the same as those contained in example (1) set forth in subparagraph (1) of this paragraph, except that the annuity is payable semiannually. The aggregate annual amount, $10,000, is multiplied by the factor 12.9934, and the product multiplied by 1.0148. The present value of the annuity at the date of the decedent's death is, therefore, $131,857.02 ($10,000×12.9934×1.0148).

(3) *Payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods.* (i) If the first payment of an annuity for the life of an individual is due at the beginning of the annual or other payment period rather than at the end (as, for example, if the first payment is to be made immediately after the decedent's death), the value of the annuity is the sum of (*a*) the first payment plus (*b*) the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in subparagraph (1) or (2) of this paragraph. The application of this subdivision may be illustrated by the following example:

Example. The decedent was entitled to receive an annuity of $50 a month during the life of another, a woman. The decedent died on the day a payment was due. At the date of the decedent's death, the person whose life measures the duration of the annuity is 50 years of age. The value of the annuity at the date of the decedent's death is $50 plus the product of $50×12×12.5793 (see Table A(2))×1.0272 (see subparagraph (2) of this paragraph). That is, $50 plus $7,752.87, or $7,802.87.

(ii) If the first payment of an annuity for a definite number of years is due at the beginning of the annual or other payment period, the applicable factor is the product of the factor shown in Table B multiplied by whichever of the following factors is appropriate:

1.0600 for annual payments,
1.0448 for semiannual payments,
1.0372 for quarterly payments,
1.0322 for monthly payments,
1.0303 for weekly payments.

The application of this subdivision may be illustrated by the following example:

Example. The decedent was the beneficiary of an annuity of $50 a month. On the day a payment was due, the decedent died. There were 300 payments to be made, including the payment due. The value of the annuity as of the date of decedent's death is the product of $50×12×12.7834 (see Table B) ×1.0322, or $7,917.02.

(c) *Life estates and terms for years.* If the interest to be valued is the right of a person for his life, or for the life of another person, to receive the income of certain property or to use nonincome-producing property, the value of the interest is the value of the property multiplied by the figure in column 3 of Table A(1) or A(2), whichever is appropriate, opposite the number of years nearest to the actual age of the measuring life. If the interest to be valued is the right to receive income of property or to use nonincome-producing property for a term of years, column 3 of Table B is used. The application of this paragraph may be illustrated by the following example:

Example. The decedent or his estate was entitled to receive the income from a fund of $50,000 during the life of his elder brother. Upon the brother's death, the remainder is to go to *X*. The brother was 31 years 5 months old at the time of decedent's death. By reference to Table A(1) the figure in column 3 opposite 31 years is found to be 0.86117. The present value of decedent's interest is therefore, $43,058.50 ($50,000×0.86117).

(d) *Remainders or reversionary interests.* If a decedent had, at the time of his death, a remainder or a reversionary interest in property to take effect after an estate for the life of another, the present value of his interest is obtained by multiplying the value of the property by the figure in column 4 of Table A(1) or A(2), whichever is appropriate, opposite the number of years nearest to the actual age of the person whose life measures the preceding estate. If the remainder or reversion is to take effect at the end of a term for years, column 4 of Table B is used. The application of this paragraph may be illustrated by the following example:

Example. The decedent was entitled to receive certain property worth $50,000 upon the death of his elder sister, to whom the income was bequeathed for life. At the time of the decedent's death, the elder sister was 31 years 5 months old. By reference to Table A(2), the figure in column 4 opposite 31 years is found to be 0.10227. The present value of the remainder interest at the date of decedent's death is, therefore, $5,113.50 ($50,000×0.10227).

(e) *Actuarial computations by the Internal Revenue Service.* If the valuation of the interest involved is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives, a special factor must be used. The factor is to be computed on the basis of interest at the rate of 6 percent a year, compounded annually, and life contingencies

determined, as to each male and female life involved, from the values of l_x that are set forth in columns 2 and 3, respectively, of Table LN of paragraph (f). Table LN contains values of l_x taken from the life table for total males and the life table for total females appearing as Tables 2 and 3, respectively, in *United States Life Tables: 1959–61*, published by the Department of Health, Education, and Welfare, Public Health Service, except that for technical reasons Table LN employs graduated data, furnished by that Department, to increase the number of significant figures shown at ages of male lives older than 86 and female lives older than 90. Many such special factors may be found in, or computed with the use of the tables contained in, the publications entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders" and "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives." These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. However, if a special factor is required in the case of an actual decedent, the Commissioner will furnish the factor to the executor upon request. The request must be accompanied by a statement of the sex and date of birth of each person, the duration of whose life may affect the value of the interest, and by copies of the relevant instruments.

(f) The following tables shall be used in the application of the provisions of this section:

TABLE A (1)

TABLE, SINGLE LIFE MALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
0	15.6175	0.93705	0.06295
1	16.0362	.96217	.03783
2	16.0283	.96170	.03830
3	16.0089	.96053	.03947
4	15.9841	.95905	.04095
5	15.9553	.95732	.04268
6	15.9233	.95540	.04460
7	15.8885	.95331	.04669
8	15.8508	.95105	.04895
9	15.8101	.94861	.05139
10	15.7663	.94598	.05402
11	15.7194	.94316	.05684
12	15.6698	.94019	.05981
13	15.6180	.93708	.06292
14	15.5651	.93391	.06609
15	15.5115	.93069	.06931
16	15.4576	.92746	.07254
17	15.4031	.92419	.07581
18	15.3481	.92089	.07911
19	15.2918	.91751	.08249
20	15.2339	.91403	.08597
21	15.1744	.91046	.08954
22	15.1130	.90678	.09328
23	15.0487	.90292	.09702
24	14.9807	.89884	.10116
25	14.9075	.89445	.10555
26	14.8287	.88972	.11028
27	14.7442	.88465	.11535
28	14.6542	.87925	.12075
29	14.5588	.87353	.12647
30	14.4584	.86750	.13250
31	14.3528	.86117	.13883
32	14.2418	.85451	.14549
33	14.1254	.84752	.15248
34	14.0034	.84020	.15980
35	13.8758	.83255	.16745
36	13.7425	.82455	.17545
37	13.6036	.81622	.18378
38	13.4591	.80755	.19245
39	13.3090	.79854	.20146
40	13.1538	.78923	.21077
41	12.9934	.77960	.22040
42	12.8279	.76967	.23033
43	12.6574	0.75944	0.24056
44	12.4819	.74891	.25109
45	12.3013	.73808	.26192
46	12.1158	.72695	.27305
47	11.9253	.71552	.28448
48	11.7298	.70385	.29615
49	11.5293	.69176	.30824
50	11.3239	.67943	.32057
51	11.1138	.66683	.33317
52	10.9007	.65404	.34596
53	10.6800	.64080	.35920
54	10.4540	.62724	.37276
55	10.2230	.61338	.38662
56	9.9877	.59926	.40074
57	9.7482	.58489	.41511
58	9.5047	.57028	.42972
59	9.2573	.55544	.44456
60	9.0063	.54038	.45962
61	8.7518	.52511	.47489
62	8.4937	.50962	.49038
63	8.2321	.49393	.50607
64	7.9670	.47802	.52198
65	7.6983	.46190	.53810
66	7.4260	.44556	.55444
67	7.1503	.42902	.57098
68	6.8712	.41227	.58773
69	6.5888	.39533	.60467
70	6.3033	.37820	.62180
71	6.0148	.36089	.63911
72	5.7236	.34342	.65658
73	5.4299	.32579	.67421
74	5.1339	.30803	.69197
75	4.8358	.29015	.70985
76	4.5358	.27215	.72785
77	4.2341	.25405	.74595
78	3.9309	.23585	.76415
79	3.6264	.21758	.78242
80	3.3208	.19925	.80075
81	3.0145	.18087	.81913
82	2.7078	.16247	.83753
83	2.4010	.14406	.85594
84	2.0944	.12566	.87434
85	1.7885	.10731	.89269
86	1.4837	.08902	.91098
87	1.1806	.07084	.92916
88	.8800	.05280	.94720
89	.5827	.03496	.96504
90	.2898	.01739	.98261
91	.0034	.00020	.99980
92	.0033	.00020	.99980
93	.0032	.00019	.99981
94	.0031	.00019	.99981
95	.0030	.00018	.99982
96	.0029	.00017	.99983
97	.0028	.00017	.99983
98	.0027	.00016	.99984
99	.0026	.00016	.99984
100	.0025	.00015	.99985
101	.0024	.00014	.99986
102	.0023	.00014	.99986
103	.0022	.00013	.99987
104	.0021	.00013	.99987
105	.0020	.00012	.99988
106	.0019	.00011	.99989
107	.0018	.00011	.99989
108	.0017	.00010	.99990
109	.0016	.00010	.99990

TABLE A(2)

TABLE, SINGLE LIFE FEMALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
0	15.8972	0.95383	0.04617
1	16.2284	.97370	.02630
2	16.2287	.97372	.02628
3	16.2180	.97308	.02692
4	16.2029	.97217	.02783
5	16.1850	.97110	.02890
6	16.1648	.96989	.03011
7	16.1421	.96853	.03147
8	16.1172	.96703	.03297
9	16.0910	.96541	.03459
10	16.0638	.96385	.03615
11	16.0353	.96170	.03830
12	16.0048	.96029	.03971
13	15.9707	.95764	.04236
14	15.9239	0.95543	0.04457
15	15.8856	.93314	.04686
16	15.8480	.93076	.04924
17	15.8043	.94829	.05171
18	15.7620	.94572	.05428
19	15.7172	.94303	.05697
20	15.6701	.94021	.05979
21	15.6207	.93724	.06276
22	15.5687	.93412	.06588
23	15.5141	.93085	.06915
24	15.4565	.92739	.07261
25	15.3959	.92375	.07625
26	15.3322	.91993	.08007
27	15.2652	.91591	.08409
28	15.1946	.91168	.08832
29	15.1208	.90725	.09275
30	15.0432	.90259	.09741
31	14.9622	.89773	.10227
32	14.8775	.89265	.10735
33	14.7888	.88733	.11267
34	14.6960	.88176	.11824
35	14.5989	.87593	.12407
36	14.4975	.86985	.13015
37	14.3915	.86349	.13651
38	14.2811	.85687	.14313
39	14.1663	.84998	.15002
40	14.0468	.84281	.15719
41	13.9227	.83536	.16464
42	13.7940	.82764	.17236
43	13.6604	.81962	.18038
44	13.5219	.81131	.18869
45	13.3781	.80269	.19731
46	13.2290	.79374	.20626
47	13.0746	.78448	.21552
48	12.9147	.77488	.22512
49	12.7496	.76498	.23502
50	12.5793	.75476	.24524
51	12.4039	.74423	.25577
52	12.2232	.73339	.26661
53	12.0367	.72220	.27780
54	11.8436	.71062	.28938
55	11.6432	.69859	.30141
56	11.4353	.68612	.31388
57	11.2200	.67320	.32680
58	10.9980	.65988	.34012
59	10.7703	.64622	.35378
60	10.5376	.63226	.36774
61	10.3005	.61803	.38197
62	10.0587	.60352	.39648
63	9.8118	.58871	.41129
64	9.5592	.57355	.42645
65	9.3005	.55803	.44197
66	9.0352	.54211	.45789
67	8.7630	.52578	.47422
68	8.4834	.50924	.49076
69	8.2063	.49241	.50759
70	7.9224	.47540	.52460
71	7.6371	.45823	.54177
72	7.3450	.44088	.55912
73	7.0463	.42241	.57759
74	6.7545	.40587	.59413
75	6.4721	.38833	.61167
76	6.1763	.37073	.62927
77	5.8945	.35207	.64793
78	5.6010	.33546	.66454
79	5.3018	.31811	.68189
80	5.0195	.30117	.69883
81	4.7492	.28459	.71541
82	4.4892	.26935	.73065
83	4.2393	.25439	.74561
84	3.9927	.23956	.76044
85	3.7491	.22441	.77559
86	3.5016	.21010	.78990
87	3.2790	.19674	.80326
88	3.0719	.18431	.81569
89	2.8808	.17285	.82715
90	2.7063	.16241	.83759
91	2.5502	.15301	.84699
92	2.4116	.14470	.85530
93	2.2901	.13741	.86259
94	2.1839	.13103	.86897
95	2.0901	.12535	.87465
96	1.9997	.11998	.88002
97	1.9145	.11487	.88513
98	1.8331	.10999	.89001
99	1.7554	.10532	.89468
100	1.6812	.10087	.89913
101	1.6101	.09661	.90339
102	1.5416	.09250	.90750
103	1.4744	.08846	.91154
104	1.4065	.08439	.91561
105	1.3334	.08000	.92000
106	1.2452	.07471	.92529
107	1.1196	.06718	.93282
108	.9043	.05426	.94574
109	.4717	.02830	.97170

TABLE B

TABLE SHOWING THE PRESENT WORTH AT 6 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN, AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN

(1) Number of years	(2) Annuity	(3) Term certain	(4) Remainder
1	0.9434	0.056604	0.943396
2	1.8334	.110004	.889996
3	2.6730	.160381	.839619
4	3.4651	.207906	.792094
5	4.2124	.252742	.747258
6	4.9173	.295039	.704961
7	5.5824	.334943	.665057
8	6.2098	.372588	.627412
9	6.8017	.408102	.591898
10	7.3601	.441605	.558395
11	7.8869	.473212	.526788
12	8.3838	.503031	.496969
13	8.8527	.531161	.468839
14	9.2950	.557699	.442301
15	9.7122	.582735	.417265
16	10.1059	.606354	.393646
17	10.4773	.628636	.371364
18	10.8276	.649656	.350344
19	11.1581	.669487	.330513
20	11.4699	.688195	.311805
21	11.7641	.705845	.294155
22	12.0416	.722495	.277505
23	12.3034	.738203	.261797
24	12.5504	.753021	.246979
25	12.7834	.767001	.232999
26	13.0032	.780190	.219810
27	13.2105	.792632	.207368
28	13.4062	.804370	.195630
29	13.5907	.815443	.184557
30	13.7648	.825890	.174110
31	13.9291	.835745	.164255
32	14.0840	.845043	.154957
33	14.2302	.853814	.146186
34	14.3681	.862088	.137912
35	14.4982	.869895	.130105
36	14.6210	.877259	.122741
37	14.7368	.884207	.115793
38	14.8460	.890761	.109239
39	14.9491	.896944	.103056
40	15.0463	.902778	.097222
41	15.1380	.908281	.091719
42	15.2245	.913473	.086527
43	15.3062	.918370	.081630
44	15.3832	.922991	.077009
45	15.4558	.927350	.072650
46	15.5244	.931462	.068538
47	15.5890	.935342	.064658
48	15.6500	.939002	.060998
49	15.7076	.942454	.057546
50	15.7619	.945712	.054288
51	15.8131	.948785	.051215
52	15.8614	.951684	.048316
53	15.9070	.954418	.045582
54	15.9500	.956999	.043001
55	15.9905	.959433	.040567
56	16.0288	.961729	.038271
57	16.0649	.963895	.036105
58	16.0990	.965939	.034061
59	16.1311	.967867	.032133
60	16.1614	.969686	.030314

TABLE LN

Values of lx

(1) Age x	(2) Total males	(3) Total females
0	100000.	100000.
1	97087.	97744.
2	96911.	97589.
3	96800.	97498.
4	96714.	97429.
5	96643.	97371.
6	96580.	97320.
7	96522.	97277.
8	96469.	97238.
9	96420.	97204.
10	96375.	97173.
11	96333.	97144.
12	96290.	97116.
13	96242.	97086.
14	96182.	97053.
15	96107.	97016.
16	96014.	96973.
17	95905.	96925.
18	95779.	96872.
19	95641.	96815.
20	95491.	96756.
21	95330.	96694.
22	95158.	96629.
23	94981.	96561.
24	94803.	96491.
25	94631.	96418.

TABLE LN

Values of lx

(1) Age x	(2) Total males	(3) Total females
26	94466.	96342.
27	94303.	96262.
28	94148.	96179.
29	93999.	96090.
30	93826.	95998.
31	93656.	95894.
32	93479.	95785.
33	93293.	95668.
34	93097.	95543.
35	92889.	95409.
36	92666.	95265.
37	92426.	95110.
38	92166.	94942.
39	91883.	94759.
40	91572.	94560.
41	91230.	94343.
42	90854.	94106.
43	90441.	93848.
44	89988.	93568.
45	89492.	93265.
46	88950.	92938.
47	88359.	92583.
48	87709.	92199.
49	86992.	91781.
50	86199.	91327.
51	85325.	90833.
52	84369.	90297.
53	83333.	89720.
54	82222.	89104.
55	81039.	88451.
56	79783.	87758.
57	78451.	87020.
58	77032.	86227.
59	75513.	85367.
60	73887.	84430.
61	72151.	83409.
62	70308.	82302.
63	68361.	81108.
64	66316.	79828.
65	64177.	78462.
66	61947.	77003.
67	59631.	75457.
68	57235.	73798.
69	54770.	72016.
70	52244.	70100.
71	49665.	68047.
72	47040.	65856.
73	44375.	63521.
74	41676.	61035.
75	38950.	58394.
76	36210.	55610.
77	33468.	52693.
78	30732.	49635.
79	28006.	46424.
80	25300.	43063.
81	22619.	39555.
82	19983.	35939.
83	17439.	32290.
84	15045.	28707.
85	12845.	25269.
86	10819.	21877.
87	8979.9	18593.
88	7332.7	15490.
89	5875.8	12628.
90	4608.7	10056.
91	3534.0	7810.9
92	2648.5	5910.7
93	1938.9	4356.1
94	1386.7	3128.5
95	960.97894	2193.0122
96	665.24779	1504.0497
97	446.27929	1003.9868
98	292.53610	661.39091
99	187.17106	423.17250
100	116.76480	263.99194
101	70.944391	160.39721
102	41.934196	94.803454
103	24.086138	54.456022
104	13.423065	30.359329
105	7.2577386	16.403923
106	3.7935839	8.5881668
107	1.9220289	4.3475233
108	0.94040163	2.1261413
109	0.44377201	1.0033181
110	0.	0.

§ 20.2031–11 Valuation of life estates, terms for years, remainders and reversions in certain depreciable property.

(Text to be published separately at a later date.)

PAR. 4. Section 25.2512–5 is amended by revising so much as precedes subparagraph (2) of paragraph (a), and by adding new subparagraph (3) at the end of paragraph (a) thereof. The amended and revised provisions read as follows:

§ 25.2512–5 Valuation of annuities, life estates, terms for years, remainders, and reversions transferred on or before December 31, 1970.

(a) *In general.* (1) Except as otherwise provided in this subparagraph, the fair market value of annuities, life estates, terms for years, remainders, and reversions transferred on or before December 31, 1970, is their present value determined under this section. The fair market value of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, is their present value determined under § 25.2512–9. The value of annuities issued by companies regularly engaged in their sale and of insurance policies issued by companies regularly engaged in their sale is determined under § 20.2512–6. Where the donor transfers property in trust or otherwise and retains an interest therein, the value of the gift is the value of the property transferred less the value of the donor's retained interest. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion which he holds by virtue of a transfer previously made by himself or another, the value of the gift is the value of the interest transferred. See § 25.2512–9(a)(1)(ii) for application of this section to transfers in 1971 of certain interests in property created in December 1970.

* * * * *

(3) In all examples set forth in this section, the interest is assumed to have been transferred on or before December 31, 1970.

PAR. 5. Immediately after § 25.2512–8 there are added the following new sections:

§ 25.2512–9 Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970.

(a) *In general.* (1)(i) Except as otherwise provided in this subparagraph, the fair market value of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, is their present value determined under this section. The value of annuities issued by companies regularly engaged in their sale and of insurance policies issued by companies regularly engaged in their sale is determined under § 25.2512–6. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3, is its present value determined under § 1.664–4. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest on such date determined under § 1.664–4. The fair market value of interests in a pooled income fund, as defined in § 1.642(c)–5, is their value determined under § 1.642(c)–6. Where the donor transfers property in trust or otherwise and retains an interest therein, the value of the gift is the

value of the property transferred less the value of the donor's retained interest. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion which he holds by virtue of a transfer previously made by himself or another, the value of the gift is the value of the interest transferred. (See § 25.2512–5 with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred on or before Dec. 31, 1970.)

(ii) If the donor transfers in calendar year 1971 either—

(*a*) A remainder or a reversion subject to a life interest or a term for years which was transferred by him in December of 1970, or

(*b*) A life interest or term for years to which is subject a remainder which was transferred by him in December of 1970,

he shall make an election. He may elect to value the interest transferred in 1971 under § 25.2512–5 as if such section applied to transfers made before January 1, 1972, or he may elect to have the transfer valued under this section. If he elects the former, he shall so value the transfer and shall indicate that he is so electing by a statement to that effect attached to his return for 1971. If he elects the latter, the election shall not be effective unless he declares, in a statement attached to his return for 1971, that he has filed an amended gift tax return for 1970, in which he has revalued the transfer made in December 1970 under this section as if this section applied to transfers made after November 30, 1970.

(2) The present value of an annuity, life estate, remainder or reversion determined under this section which is dependent on the continuation or termination of the life of one person is computed by the use of Table A(1) or A(2) in paragraph (f) of this section. Table A(1) is to be used when the person upon whose life the interest is based is a male and Table A(2) is to be used when such person is a female. The present value of an annuity, term for years, remainder or reversion dependent on a term certain is computed by the use of Table B in paragraph (f) of this section. If the interest to be valued is dependent upon more than one life or there is a term certain concurrent with one or more lives, see paragraph (e) of this section. For purposes of the computations described in this section, the age of a person is to be taken as the age of that person at his nearest birthday.

(3) In all examples set forth in this section, the interest is assumed to have been transferred after December 31, 1970.

(b) *Annuities*—(1) *Payable annually at end of year.* If an annuity is payable annually at the end of each year during the life of an individual (as for example if the first payment is due 1 year after the date of the gift), the amount payable annually is multiplied by the figure in column 2 of Table A(1) or A(2), whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. If the annuity is payable annually at the end of each year for a definite number of years, the amount payable annually is multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The application of this subparagraph may be illustrated by the following examples:

Example (1). The donor, a male, assigns an annuity of $10,000 a year payable annually during his life immediately after an annual payment has been made. The age of the donor on the date of assignment is 40 years and 8 months. By reference to Table A(1), it is found that the figure in column 2 opposite 41 years is 12.9934. The value of the gift is, therefore, $129,934 ($10,000 multiplied by 12.9934).

Example (2). The donor was entitled to receive an annuity of $10,000 a year payable annually at the end of annual periods throughout a term of 20 years; the donor, when 15 years have elapsed, makes a gift thereof to his son. By reference to Table B, it is found that the figure in column 2 opposite 5 years, the unexpired portion of the 20-year period, is 4.2124. The present value of the annuity is, therefore, $42,124, $10,000 multiplied by 4.2124).

(2) *Payable at the end of semiannual, quarterly, monthly, or weekly periods.* If an annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods during the life of an individual (as for example if the first payment is due 1 month after the date of the gift), the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table A(1) or A(2), whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0148 for semiannual payments,
1.0222 for quarterly payments,
1.0272 for monthly payments,
1.0291 for weekly payments.

If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods for a definite number of years the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The product so obtained is then multiplied by whichever of the above factors is appropriate. The application of this subparagraph may be illustrated by the following example:

Example. The facts are the same as those contained in example (1) set forth in subparagraph (1) above, except that the annuity is payable semiannually. The aggregate annual amount, $10,000, is multiplied by the factor 12.9934, and the product multiplied by 1.0148. The value of the gift is, therefore, $131,857.02 ($10,000×12.9934×1.0148).

(3) *Payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods.* (i) If the first payment of an annuity for the life of an individual is due at the beginning of the annual or other payment period rather than at the end (as for example if the first payment is to be made immediately after the date of the gift), the value of the annuity is the sum of (*a*) the first payment plus (*b*) the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in subparagraph (1) or (2) of this paragraph. The application of this subdivision may be illustrated by the following example:

Example. The donee, a woman, is made the beneficiary for life of an annuity of $50 a month from the income of a trust, subject to the right reserved by the donor to cause the annuity to be paid for his own benefit or for the benefit of another. On the day a payment is due, the donor relinquishes his reserved power. The donee is then 50 years of age. The value of the gift is $50 plus the product of $50×12×12.5793 (see Table A(2)) ×1.0272. That is, $50 plus $7,752.87, or $7,802.87.

(ii) If the first payment of an annuity for a definite number of years is due at the beginning of the annual or other payment period, the applicable factor is the product of the factor shown in Table B multiplied by whichever of the following factors is appropriate:

1.0600 for annual payments,
1.0448 for semiannual payments,
1.0372 for quarterly payments,
1.0322 for monthly payments, or
1.0303 for weekly payments.

The application of this subdivision may be illustrated by the following example:

Example. The donee is the beneficiary of an annuity of $50 a month, subject to a reserved right in the donor to cause the annuity or the cash value thereof to be paid for his own benefit or the benefit of another. On the day a payment is due, the donor relinquishes the power. There are 300 payments to be made covering a period of 25 years, including the payment due. The value of the gift is the product of $50×12×12.7834 (factor for 25 years Table B) ×1.0322, or $7,917.02.

(c) *Life estates and terms for years.* If the interest to be valued is the right of a person for his life, or for the life of another person, to receive the income of certain property or to use nonincome-producing property, the value of the interest is the value of the property multiplied by the figure in column 3 of Table A(1) or A(2), whichever is appropriate, opposite the number of years nearest to the actual age of the measuring life. If the interest to be valued is the right to receive income of property or to use nonincome-producing property for a term of years, column 3 of Table B is used. The application of this paragraph may be illustrated by the following example:

Example. The donor, a male, who during his life is entitled to receive the income from property worth $50,000, makes a gift of such interest. The donor is 31 years old on the date of the gift. The value of the gift is $43,058.50 ($50,000×0.86117).

(d) *Remainders or reversionary interests.* If the interest to be valued is a remainder or reversionary interest subject to a life estate, the value of the interest should be obtained by multiplying the value of the property at the date of the gift by the figure in column 4 of Table A(1) or A(2), whichever is appropriate, opposite the number of years nearest the age of the life tenant. If the remainder

or reversion is to take effect at the end of a term of years, column 4 of Table B should be used. The application of this paragraph may be illustrated by the following example:

Example. The donor transfers by gift a remainder interest in property worth $50,000, subject to his sister's right to receive the income therefrom for her life. The sister at the date of the gift is 31 years of age. By reference to Table A(2), it is found that the figure in column 4 opposite age 31 is 0.10227. The value of the gift is, therefore, $5,113.50 ($50,000×0.10227).

(e) *Actuarial computations by the Internal Revenue Service.* If the interest to be valued is dependent upon the continuation or termination of more than one life, or there is a term certain concurrent with one or more lives, or if the retained interest of the donor is conditioned upon survivorship, a special factor is necessary. The factor is to be computed on the basis of interest at the rate of 6 percent a year, compounded annually, and life contingencies determined, as to each male and female life involved, from the values of l_x that are set forth in columns 2 and 3, respectively, of Table LN of paragraph (f) of § 20.2031–10. Table LN contains values of l_x taken from the life table for total males and the life table for total females appearing as Tables 2 and 3, respectively, in *United States Life Tables: 1959–61*, published by the Department of Health, Education, and Welfare, Public Health Service, except that for technical reasons Table LN employs graduated data, furnished by that Department, to increase the number of significant figures shown at ages of male lives older than 86 and female lives older than 90. Many such special factors may be found in, or computed with the use of the tables contained in, the publications entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders" and "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives." These publications may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, if a special factor is required in the case of an actual gift, the Commissioner will furnish the factor to the donor upon request. The request must be accompanied by a statement of the sex and date of birth of each person the duration of whose life may affect the value of the interest, and by copies of the relevant instruments.

(f) The following tables shall be used in the application of the provisions of this section:

TABLE A(1)

TABLE, SINGLE LIFE MALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
0	15.6175	0.93705	0.06295
1	16.0362	.96217	.03783
2	16.0283	.96170	.03830
3	16.0089	.96053	.03947
4	15.9841	.95905	.04095
5	15.9553	.95732	.04268
6	15.9233	.95540	.04460
7	15.8885	.95331	.04669
8	15.8508	0.95105	0.04895
9	15.8101	.94861	.05139
10	15.7663	.94598	.05402
11	15.7194	.94316	.05684
12	15.6693	.94019	.05981
13	15.6180	.93708	.06292
14	15.5651	.93391	.06609
15	15.5115	.93069	.06931
16	15.4576	.92746	.07254
17	15.4031	.92419	.07581
18	15.3481	.92089	.07911
19	15.2918	.91751	.08249
20	15.2339	.91403	.08597
21	15.1744	.91046	.08954
22	15.1130	.90678	.09322
23	15.0497	.90292	.09708
24	14.9807	.89884	.10116
25	14.9075	.89445	.10555
26	14.8237	.88972	.11028
27	14.7442	.88465	.11535
28	14.6542	.87925	.12075
29	14.5583	.87353	.12647
30	14.4584	.86750	.13250
31	14.3528	.86117	.13883
32	14.2418	.85451	.14549
33	14.1254	.84752	.15248
34	14.0034	.84020	.15980
35	13.8758	.83255	.16745
36	13.7425	.82455	.17545
37	13.6036	.81622	.18378
38	13.4591	.80755	.19245
39	13.3090	.79854	.20146
40	13.1538	.78923	.21077
41	12.9934	.77960	.22040
42	12.8279	.76967	.23033
43	12.6574	.75944	.24056
44	12.4819	.74891	.25109
45	12.3013	.73808	.26192
46	12.1158	.72695	.27305
47	11.9253	.71552	.28448
48	11.7308	.70385	.29615
49	11.5320	.69198	.30802
50	11.3320	.67997	.32003
51	11.1308	.66785	.33215
52	10.9267	.65560	.34440
53	10.7200	.64320	.35680
54	10.5100	.63060	.36940
55	10.2960	.61776	.38224
56	10.0777	.60466	.39534
57	9.8552	.59131	.40869
58	9.6297	.57778	.42222
59	9.4023	.56417	.43583
60	9.1753	.55052	.44948
61	8.9478	.53687	.46313
62	8.7202	.52321	.47679
63	8.4924	.50954	.49046
64	8.2642	.49585	.50415
65	8.0353	.48212	.51788
66	7.8060	.46836	.53164
67	7.5763	.45458	.54542
68	7.3462	.44077	.55923
69	7.1149	.42689	.57311
70	6.8823	.41294	.58706
71	6.6481	.39889	.60111
72	6.4123	.38474	.61526
73	6.1752	.37051	.62949
74	5.9373	.35624	.64376
75	5.6990	.34194	.65806
76	5.4602	.32761	.67239
77	5.2211	.31327	.68673
78	4.9825	.29895	.70105
79	4.7469	.28481	.71519
80	4.5164	.27098	.72902
81	4.2955	.25773	.74227
82	4.0879	.24527	.75473
83	3.8924	.23354	.76646
84	3.7029	.22217	.77783
85	3.5117	.21070	.78930
86	3.3259	.19955	.80045
87	3.1450	.18870	.81130
88	2.9703	.17822	.82178
89	2.8052	.16831	.83169
90	2.6536	.15922	.84078
91	2.5162	.15097	.84903
92	2.3917	.14350	.85650
93	2.2801	.13681	.86319
94	2.1802	.13081	.86919
95	2.0891	.12535	.87465
96	1.9997	.11998	.88002
97	1.9145	.11487	.88513
98	1.8331	.10999	.89001
99	1.7554	.10532	.89468
100	1.6812	.10087	.89913
101	1.6101	.09661	.90339
102	1.5416	.09250	.90750
103	1.4744	.08846	.91154
104	1.4065	.08439	.91561
105	1.3334	.08000	.92000
106	1.2452	.07471	.92529
107	1.1196	.06718	.93282
108	.9043	.05426	.94574
109	.4717	.02830	.97170

TABLE A(2)

TABLE, SINGLE LIFE FEMALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
0	16.8972	0.98383	0.01617
1	16.2234	.97370	.02630
2	16.2287	.97372	.02628
3	16.2180	.97308	.02692
4	16.2029	.97217	.02783
5	16.1850	.97110	.02890
6	16.1648	.96989	.03011
7	16.1421	.96853	.03147
8	16.1172	.96703	.03297
9	16.0901	.96541	.03459
10	16.0608	.96365	.03635
11	16.0293	.96176	.03824
12	15.9958	.95975	.04025
13	15.9607	.95764	.04236
14	15.9239	.95543	.04457
15	15.8856	.95314	.04686
16	15.8460	.95076	.04924
17	15.8049	.94829	.05171
18	15.7620	.94572	.05428
19	15.7172	.94303	.05697
20	15.6701	.94021	.05979
21	15.6207	.93724	.06276
22	15.5687	.93412	.06588
23	15.5141	.93085	.06916
24	15.4565	.92739	.07261
25	15.3959	.92376	.07624
26	15.3322	.91993	.08007
27	15.2652	.91591	.08409
28	15.1946	.91168	.08832
29	15.1203	.90722	.09278
30	15.0422	.90253	.09747
31	14.9622	.89773	.10227
32	14.8776	.89265	.10735
33	14.7888	.88733	.11267
34	14.6960	.88176	.11824
35	14.5989	.87593	.12407
36	14.4976	.86985	.13015
37	14.3916	.86349	.13651
38	14.2811	.85687	.14313
39	14.1663	.84998	.15002
40	14.0468	.84281	.15719
41	13.9227	.83536	.16464
42	13.7940	.82764	.17236
43	13.6604	.81962	.18038
44	13.5219	.81131	.18869
45	13.3781	.80269	.19731
46	13.2290	.79374	.20626
47	13.0740	.78443	.21557
48	12.9147	.77488	.22512
49	12.7490	.76493	.23507
50	12.5793	.75476	.24524
51	12.4039	.74423	.25577
52	12.2232	.73339	.26661
53	12.0367	.72220	.27780
54	11.8439	.71062	.28938
55	11.6432	.69859	.30141
56	11.4353	.68612	.31388
57	11.2200	.67320	.32680
58	10.9989	.65993	.34012
59	10.7703	.64622	.35378
60	10.5376	.63226	.36774
61	10.3005	.61803	.38197
62	10.0587	.60352	.39648
63	9.8118	.58871	.41129
64	9.5592	.57355	.42645
65	9.3005	.55803	.44197
66	9.0352	.54211	.45789
67	8.7639	.52583	.47417
68	8.4874	.50924	.49076
69	8.2068	.49241	.50759
70	7.9234	.47540	.52460
71	7.6371	.45823	.54177
72	7.3480	.44088	.55912
73	7.0568	.42341	.57659
74	6.7645	.40587	.59413
75	6.4721	.38833	.61167
76	6.1783	.37073	.62927
77	5.8845	.35307	.64693
78	5.5910	.33546	.66454
79	5.3018	.31811	.68189
80	5.0195	.30117	.69883
81	4.7482	.28489	.71511
82	4.4892	.26935	.73065
83	4.2393	.25436	.74564
84	3.9927	.23956	.76044
85	3.7401	.22441	.77559
86	3.5016	.21010	.78990
87	3.2760	.19674	.80326
88	3.0719	.18431	.81569
89	2.8808	.17285	.82715
90	2.7063	.16241	.83759
91	2.5502	.15301	.84699
92	2.4116	.14470	.85530
93	2.2901	.13741	.86259
94	2.1839	.13103	.86897

TABLE A(2)—Continued

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
95	2.0891	0.12535	0.87465
96	1.9997	.11998	.88002
97	1.9145	.11487	.88513
98	1.8331	.10999	.89001
99	1.7554	.10532	.89468
100	1.6812	.10087	.89913
101	1.6101	.09661	.90339
102	1.5416	.09250	.90750
103	1.4744	.08846	.91154
104	1.4065	.08439	.91561
105	1.3334	.08000	.92000
106	1.2452	.07471	.92529
107	1.1196	.06718	.93282
108	.9043	.05426	.94574
109	.4717	.02830	.97170

TABLE B

TABLE SHOWING THE PRESENT WORTH AT 6 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN, AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN

(1) Number of years	(2) Annuity	(3) Term certain	(4) Remainder
1	0.9434	0.056604	0.943396
2	1.8334	.110004	.889996
3	2.6730	.160381	.839619
4	3.4651	.207906	.792094
5	4.2124	.252742	.747258
6	4.9173	.295039	.704961
7	5.5824	.334943	.665057
8	6.2098	.372588	.627412
9	6.8017	.408102	.591898
10	7.3601	.441605	.558395
11	7.8869	.473212	.526788
12	8.3838	.503031	.496969
13	8.8527	.531161	.468839
14	9.2950	.557699	.442301
15	9.7122	.582735	.417265
16	10.1059	.606354	.393646
17	10.4773	.628636	.371364
18	10.8276	.649656	.350344
19	11.1581	.669487	.330513
20	11.4699	.688195	.311805
21	11.7641	.705845	.294155
22	12.0416	.722495	.277505
23	12.3034	.738203	.261797
24	12.5504	.753021	.246979
25	12.7834	.767001	.232999
26	13.0032	.780190	.219810
27	13.2105	.792632	.207368
28	13.4062	.804370	.195630
29	13.5907	.815443	.184557
30	13.7648	.825890	.174110
31	13.9291	.835745	.164255
32	14.0840	.845043	.154957
33	14.2302	.853814	.146186
34	14.3681	.862088	.137912
35	14.4982	.869895	.130105
36	14.6210	.877259	.122741
37	14.7368	.884207	.115793
38	14.8460	.890761	.109239
39	14.9491	.896944	.103056
40	15.0463	.902778	.097222
41	15.1380	.908281	.091719
42	15.2245	.913473	.086527
43	15.3062	.918370	.081630
44	15.3832	.922991	.077009
45	15.4558	.927350	.072650
46	15.5244	.931462	.068538
47	15.5890	.935342	.064658
48	15.6500	.939002	.060998
49	15.7076	.942454	.057546
50	15.7619	.945712	.054288
51	15.8131	.948785	.051215
52	15.8614	.951684	.048316
53	15.9070	.954418	.045582
54	15.9500	.956999	.043001
55	15.9905	.959433	.040567
56	16.0288	.961729	.038271
57	16.0649	.963895	.036105
58	16.0990	.965939	.034061
59	16.1311	.967867	.032133
60	16.1614	.969686	.030314

§ 25.2512-10 Valuation of life estates, terms for years, remainders and reversions in certain depreciable property.

(Text to be published separately at a later date.)

[F.R. Doc. 70-16225; Filed, Dec. 1, 1970; 12:35 p.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Directive No. 13]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart R—Bureau of Narcotics and Dangerous Drugs

DELEGATION OF ADDITIONAL AUTHORITY

Under the authority delegated by the Attorney General pursuant to Order 442-70, 35 F.R. 17332, regarding delegating functions under the "Comprehensive Drug Abuse Prevention and Control Act of 1970" (hereinafter referred to as the Act) and Part 0 of Title 28 of the Code of Federal Regulations, the Appendix to Supart R (§§ 0.100 and 0.101) is hereby amended by delegating the following rights, powers and duties incident to carrying out the provisions in force under the Act to duly appointed and authorized officials and employees of the Bureau of Narcotics and Dangerous Drugs:

BUREAU AGENTS

DELEGATION OF ADDITIONAL AUTHORITY

(1) All criminal investigators, Series 1811, under Civil Service Commission regulations, may administer oaths under section 505 of the Act; serve subpenas under sections 505 and 506 of the Act; and avail themselves of all necessary powers, rights, privileges, and duties contained in sections 508, 509, 510, 511 (except rulings on petitions for remission or mitigation of forfeitures), and 1015 of the Act;

(2) All Regional Directors, or in their absences, the respective Deputy Regional Directors, may sign and issue subpenas under section 506 of the Act, except that subpenas issued pursuant to an enforcement proceeding under section 513 of the Act must be issued pursuant to approval of the Office of Chief Counsel.

OFFICE OF CHIEF COUNSEL

The Chief Counsel or, in his absence, the Deputy Chief Counsel, is authorized to exercise all necessary functions with respect to the following described matters:

(1) Cooperate under section 503(a)(2) of the Act in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(2) Formulation and coordination of the proceedings relating to the holding of hearings under section 505 of the Act. Except as provided by the Administrative Procedures Act, all final determinations pursuant to the conduct of the hearings shall be made by the Director;

(3) Signing and issuance of subpenas and the administering of oaths in connection with administrative hearings under section 505 and enforcement proceedings under section 513. *Provided*, That properly designated hearing officers shall also have the authority to sign and issue subpenas and to administer oaths in connection with administrative hearings;

(4) Review of probable cause for seizure and forfeiture of property pursuant to section 511, and to rule on petitions for remission or mitigation of forfeitures;

(5) Conduct proceedings and make rulings under section 513 relating to notice and opportunity for certain violators to present views prior to institution of criminal proceedings. The Regional Directors of the Bureau of Narcotics and Dangerous Drugs, or their delegates, are also authorized to conduct such proceedings with the concurrence of the Chief Counsel.

Dated: December 1, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70-16292; Filed, Dec. 3, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-42]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Miscellaneous Amendments

The purpose of this amendment is to revise certain portions of Part 1 of the Regulations of the Office of the Secretary to amend the description of the spheres of primary responsibility of the Offices of Congressional Relations and Public Affairs in the Department and state the delegations of authority to the Directors of those offices.

Since this amendment relates only to the internal management of the Department, notice and public procedure thereon are not required and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, effective November 25, 1970, Part 1 of Title 49, Code of Federal Regulations is amended as follows:

(a) The table of contents is amended by striking out the item

Sec.
1.62 Saving provision.

and inserting in place thereof

Sec.
1.62 Delegations of Director of Congressional Relations.
1.63 Delegations to Director of Public Affairs.
1.64 Saving provision.

(b) Paragraphs (k) and (l) of § 1.24 are amended to read as follows:

§ 1.24 Spheres of primary responsibility.

* * * * * *

(k) *Office of Congressional Relations.* Congressional relations and departmental relations with other Federal agencies, State and local governments, industry, and labor.

(l) *Office of Public Affairs.* Public information and Departmental relations with the news media and the general public.

(c) Section 1.62 is deleted and the following new sections are added at the end of the Part:

§ 1.62 Delegations to Director of Congressional Relations.

The Director of Congressional Relations is delegated authority to establish procedures for responding to Congressional correspondence and review all replies on matters having policy implications, with final authority to coordinate, with other offices, any replies he deems necessary.

§ 1.63 Delegations to Director of Public Affairs.

The Director of Public Affairs is delegated authority to—

(a) Administer regulations and procedures governing public access to the records of the Office of the Secretary (a decision by the Director not to disclose a record is considered to be a withholding by the Secretary), and issue supplementary policies and procedures to insure uniform Department implementation of related secretarial orders and regulations.

(b) Monitor the overall public information program and review and approve informational materials having policy-making ramifications before they are printed and disseminated.

§ 1.64 Saving provision.

Each order, determination, regulation or contract that was in effect on January 17, 1970, and that was issued or made on or before that date under any authority delegated under this part, shall continue in effect according to the terms until modified, terminated, superseded, set aside, or repealed by the person to whom the delegation or redelegation is made, by any court of competent jurisdiction, or by operation of law.

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1659)

Issued in Washington, D.C., on the 25th of November 1970.

JOHN A. VOLPE,
Secretary of Transportation.

[F.R. Doc. 70-16285; Filed, Dec. 3, 1970; 8:48 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1055]

PART 1033—CAR SERVICE

Burlington Northern Inc., and Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Trackage Abandoned by Sioux City Terminal Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 27th day of November 1970.

It appearing, that the Sioux City Terminal Railway Co., in Finance Docket No. 25920, was authorized by the Commission to abandon its entire line of railroad; that it will cease all operations at 11:59 p.m., December 5, 1970; that the Burlington Northern Inc., and the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. have agreed to operate the trackage abandoned by the Sioux City Terminal Railway Co., including all interchange, industrial, and other auxiliary tracks connected thereto; that the Commission is of the opinion that there is need for railroad service to industries located on this trackage; that operations over this trackage by the Burlington Northern Inc. and the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. are necessary to provide service to these industries in the interest of the public and the commerce of the people pending final disposition of the joint application of the Burlington Northern Inc. and the Chicago, Milwaukee, St. Paul and Pacific Railroad for permanent authority to operate this trackage; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1055 Service Order No. 1055.

(a) *Burlington Northern Inc., and Chicago, Milwaukee, St. Paul and Pacific Railroad Co. authorized to operate over trackage abandoned by Sioux City Terminal Railway Co.* The Burlington Northern Inc., and the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., be, and they are hereby, authorized to operate over trackage abandoned by the Sioux City Terminal Railway Co.

(b) *Application.* The provisions of this order shall apply to intrastate and foreign traffic, as well as to interstate traffic.

(c) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Effective date.* This order shall become effective at 11:59 p.m., December 5, 1970.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-16290; Filed, Dec. 3, 1970; 8:49 a.m.]

[S.O. 1056]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of November 1970.

It appearing, that an acute shortage of certain plain boxcars exists on the railroad named in section (a) paragraph (1) herein; that shippers located on the lines of this carrier are being deprived of such cars required for loading, resulting in a severe emergency and causing grain elevators to be unable to accept newly harvested grain, or to store grain on the ground, thus creating economic loss; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1056 Service Order No. 1056.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraphs (2) and (4) of this paragraph, all plain boxcars which are listed in the registration of the specific railroad named herein in the Official Railway Equipment Register, ICC R.E.R. 377, issued by E. J. McFarland, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide and bearing the identification marks shown:

Chicago, Rock Island and Pacific Railroad Company Identification marks—RI

(2) Except as otherwise provided in subparagraphs (4) or (5) of this paragraph, boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad, or to any other station which is closer to the owner than the

station at which loaded. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(3) Boxcars described in subparagraph (1) of this paragraph shall not be back-hauled empty from a junction with the car owner.

(4) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(5) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications of this order may be authorized by the Chief Transportation Officer of the car owner or by directions of this Commission. Modifications issued by the Chief Transportation Officer of the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C. for submission to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission.

(6) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty, or loaded as authorized by subparagraphs (2) or (4) of this paragraph, at a junction with the car owner.

(7) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 377, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points".

(8) In determining distances to the car owner from the points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(9) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraphs (2) or (4) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., December 1, 1970.

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-16300; Filed, Dec. 3, 1970; 8:49 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Implementation of the National Environmental Policy Act of 1969

On June 3, 1970, the Atomic Energy Commission published for comment in the FEDERAL REGISTER proposed amendments to its regulations in 10 CFR Part 50, Appendix D, a statement of general policy that indicates how the Commission will exercise its responsibilities under the National Environmental Policy Act of 1969, Public Law 91-190, with respect to the licensing of power reactors and fuel reprocessing plants (35 F.R. 8594). The proposed amendments would revise Appendix D to reflect (1) the guidance of the Council on Environmental Quality, and (2) the enactment of the Water Quality Improvement Act of 1970.

REVISED APPENDIX D AS PUBLISHED FOR COMMENT

Under revised Appendix D set out in the notice of proposed rulemaking, applicants for construction permits for nuclear power reactors and fuel reprocessing plants would be required to submit with the application a separate report on specified environmental considerations. Applicants for operating licenses for such facilities would be required to submit a report discussing the same environmental considerations, to the extent that they differ significantly from those discussed in the report submitted at the construction permit stage.

Copies of such reports would then be transmitted by the Commission, with a request for comments, to Federal agencies designated by the Council on Environmental Quality as having "jurisdiction by law or special expertise with respect to any environmental impact involved" or as "authorized to develop and enforce environmental standards" as the Commission determines are appropriate. A summary notice of availability of such reports would be published in the FEDERAL REGISTER, with a request for comment on the proposed action and on the report from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards.

After receipt of the comments of the Federal, State, and local agencies, the Commission's Director of Regulation or his designee would prepare a Detailed Statement on the environmental considerations, including, where appropriate, a discussion of problems and objections raised by such agencies and the disposition thereof. In preparing the Detailed Statement, the Director of Regulation or his designee could rely, in whole or in part, on, and incorporate by reference, the appropriate Applicant's Environmental Report, and the comments thereon submitted by Federal, State, and local agencies, as well as the regulatory staff's radiological safety evaluation.

Revised Appendix D as published for comment provided that both the Applicant's Environmental Reports and the Detailed Statements would be required, with respect to water quality aspects of the proposal covered by section 21(b) of the Federal Water Pollution Control Act, to include only a reference to the certification issued pursuant to section 21(b) or to the basis on which such certification is not required. License conditions imposed under Appendix D, requiring observance of standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved, would not apply to matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act.

The types of materials licenses to which procedures and measures similar to those for nuclear power reactors and fuel reprocessing plant licenses would be applied were indicated in the notice of proposed rulemaking.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 30 days after publication of the notice of proposed rulemaking in the FEDERAL REGISTER on June 3, 1970. The Commission has received a number of comments reflecting a variety of, and sometimes conflicting, points of view. All comments have been carefully considered. A number of the comments received are discussed below. Upon consideration of these comments and other factors involved, the Commission has adopted the revised Appendix D set out below.

SIGNIFICANT CHANGES FROM PROPOSED APPENDIX D

Before discussing the new or amended provisions of Appendix D as adopted by the Commission, it is considered appropriate to point out, by way of background, that the Commission, under the Atomic Energy Act of 1954, as amended, is required to hold a public hearing at the construction permit stage for, among other facilities, each nuclear power reactor and fuel reprocessing plant. This

hearing is required whether or not there is a contest regarding the issuance of the permit. At the operating license stage there is opportunity for a further public hearing at the request of any person whose interest may be affected by the proceeding. A central purpose of these hearings under the Atomic Energy Act of 1954, as amended, is to provide an open, public review of the radiological effects of the facility on the environment.

In section 102 of the National Environmental Policy Act of 1969, the Congress authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in that Act. While this provision does not specifically refer to Federal licensing of private activities, the Commission has interpreted it to embrace licensing to the extent and in the manner described below. Consequently, in implementing the National Environmental Policy Act of 1969, attention has been directed to nonradiological environmental effects as well as radiological effects.

With respect to nuclear power plants, the principal environmental effects are radiological effects, and the thermal effects of cooling water discharges. There are other environmental effects as well—for example, in the areas of noise, recreation, esthetics, etc. In view of the Commission's new responsibilities under the National Environmental Policy Act of 1969, it has recognized that some environmental amenities and values are presently quantified and that some are as yet unquantified. The Commission has sought to give appropriate recognition to both categories, as well as to take into account the traditional role played by State and local governments in the protection of the environment.

The significant new or amended provisions of Appendix D as adopted by the Commission are:

1. The Commission believes that the preservation of environmental values can best be accomplished through the establishing of environmental quality standards and requirements by appropriate Federal, State, and regional agencies having responsibility for environmental protection. In the case of water quality, the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, has established a system of federally approved State standards for water quality and a requirement that Federal licensing agencies be provided a certification from the appropriate State, interstate, or Federal authority that there is reasonable assurance that the activity to be licensed will be conducted in a manner which will not violate applicable water quality standards. The Commission urges the appropriate agencies to proceed promptly to establish standards and requirements for other aspects of environmental quality.

2. In a proceeding for the issuance of a construction permit or an operating license for a nuclear power reactor or fuel reprocessing plant, any party to the proceeding may raise as an issue whether the issuance of the permit or license would be likely to result in a significant, adverse effect on the environment. If such a result were indicated, in accordance with the declaration of national policy expressed in the National Environmental Policy Act of 1969, consideration will be given to the need for the imposition of requirements for the preservation of environmental values consistent with other essential considerations of national policy, including the need to meet on a timely basis the growing national requirements for electric power.

With respect to those aspects of environmental quality for which environmental quality standards and requirements have been established, proof that the applicant is equipped to observe and agrees to observe such standards and requirements will be considered a satisfactory showing that there will not be a significant, adverse effect on the environment. Certification by the appropriate agency that there is reasonable assurance that the applicant for the permit or license will observe such standards and requirements will be considered dispositive for this purpose. In any event, there will be incorporated in construction permits and operating licenses a condition to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved.

3. In order to provide an orderly period of transition in the conduct of the Commission's regulatory proceedings and to avoid unreasonable delays in the construction and operation of nuclear power plants urgently needed to meet the national requirements for electric power, the issues described in paragraph 2 above may be raised only in proceedings in which the notice of hearing in the proceedings is published on or after March 4, 1971.

4. The issues described in paragraph 2 above would not apply to (a) radiological effects since radiological effects are considered pursuant to other provisions of Part 50 or (b) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act.[1] If any party raised any issue as described in paragraph 2 above, the Applicant's Environmental Report and the Detailed Statement would be offered in evidence.

5. If no party to such a proceeding, including AEC staff, raised any issue as described in paragraph 2 above, those issues would not be considered by the atomic safety and licensing board. Under such circumstances, although the Applicant's Environmental Report, comments thereon, and the Detailed Statement will accompany the application through the Commission's review process, they will not be received in evidence, and the Commission's responsibilities under the National Environmental Policy Act of 1969 will be carried out in toto outside the hearing process.

6. If any of the issues described in paragraph 2 above were properly raised by a party to the proceeding, the atomic safety and licensing board would make findings of fact on and resolve the matters in controversy among the parties with regard to those issues. Depending on the resolution of those issues, the permit or license could be granted, denied, or appropriately conditioned to protect environmental values.

7. In addition, revised Appendix D will:

(a) Require, as soon as practicable, the filing of Environmental Reports by holders of construction permits and preparation of Detailed Statements in cases where a Detailed Statement has not previously been prepared;

(b) Provide for the inclusion of a condition to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved, in construction permits and operating licenses previously issued which do not contain such condition;

(c) Provide for the inclusion of a condition to the effect that the licensee shall comply with all applicable requirements of section 21(b) of the Federal Water Pollution Control Act, in construction permits and operating licenses whenever issued;[2]

(d) Require the discussion of water quality aspects of the proposed action, whether or not covered by section 21(b) of the Federal Water Pollution Control Act, in Environmental Reports and Detailed Statements;

(e) Provide that, after receipt of an Environmental Report, the Director of Regulation or his designee will prepare a draft Detailed Statement which, with the Environmental Report, will be circulated to cognizant agencies for comment, and that a final Detailed Statement will be prepared after receipt of comments on the draft Statement and Report.

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[1] Under section 21(b) the Commission is generally prohibited from issuing a construction permit or operating license for a facility discharging effluents into navigable waters without having received a certificate from the State or interstate water pollution control agency or the Secretary of the Interior, as appropriate, that there is reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards. (Under Reorg. Plan No. 3 of 1970, the function of the Secretary of the Interior in this regard will be exercised by the Administrator of the Environmental Protection Agency.) In addition, as noted in paragraph 7c, the AEC will include a condition in construction permits and operating licenses for power reactors and fuel reprocessing plants to the effect that the licensee shall comply with all applicable requirements of section 21(b).

[2] The Commission intends to issue a separate statement of general policy and procedure to indicate in greater detail how it intends to exercise its responsibilities under section 21(b) of the Federal Water Pollution Control Act.

DISCUSSION OF COMMENTS RECEIVED IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING PUBLISHED JUNE 3, 1970

One comment raised questions as to the wisdom of the policy which Appendix D implements, and of the applicability of that policy to AEC licensing actions. The Commission is of the view that the National Environmental Policy Act of 1969 requires the AEC to take appropriate action to implement that Act, and that Appendix D, both in its proposed form and in the form adopted, expresses a reasonable, although not necessarily the only possible, technique of implementing the goals set forth in the Act.

The suggestion was made in the comments of the Calvert Cliffs Coordinating Committee, National Wildlife Federation, and the Sierra Club that the Commission should apply the requirements of Appendix D to holders of construction permits issued without consideration of environmental factors who have not yet applied for an operating license, and suspend the construction permits pending investigation of the environmental impact of the facility.[2] Those comments also suggest that the Commission require "backfitting" of facilities—that is, the addition, elimination, or modification of structures, systems, or components of a facility after a construction permit has been issued—if it finds that such action will provide substantial, additional protection of the environment.

Scenic Shoreline Preservation Conference, Inc., suggested that full compliance with the National Environmental Policy Act of 1969 be required for major Federal actions taken after January 1, 1971, and, with respect to Federal actions taken between January 1, 1970, and January 1, 1971, that the AEC issue to the license or permit applicant an order to show cause why that Act should not be fully enforced.

As noted above, the Commission has modified Appendix D to require, as soon as practicable, the filing of Environmental Reports by holders of construction permits who have not filed an application for an operating license, and preparation of Detailed Statements, in cases where a Detailed Statement has not previously been prepared. Paragraph 10 of proposed Appendix D (redesignated as paragraph 9) has been amended to provide that the condition described in that paragraph (requiring permittees and licensees to observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved) will also be included in permits and licenses previously issued which do not contain such a condition.

The suggestion that construction permits issued without prior consideration of environmental factors by the Commission be suspended pending the investigation of the environmental impact of the facility has not been adopted. Whether suspension is appropriate is a matter to be determined pursuant to Subpart B of the Commission's rules of practice, 10 CFR Part 2, in the light of requirements established in Appendix D as herein adopted.

The suggestion that "backfitting" be required for facilities under construction or already operating has also not been adopted. In the Commission's program for the regulation of facilities, the primary times of decisionmaking are at the issuance of the construction permit, and at the issuance of the operating license. The pattern for implementation of the requirements of the National Environmental Policy Act of 1969 outlined in revised Appendix D contemplates that consideration of environmental impact in the Commission's decisionmaking process will be given primarily at the construction permit stage so as to afford the greatest latitude for early, appropriate action. Environmental matters differing significantly from those considered at the construction permit stage, or when the first Environmental Report is filed as described in paragraph 7a above, would, however, be considered at the operating license stage. The Commission believes that this approach affords the full review of environmental matters in connection with agency decisionmaking required by the National Environmental Policy Act of 1969 and, together with the condition described in redesignated paragraph 9 of revised Appendix D, reflects a reasonable balancing of the various public interest considerations involved.

Calvert Cliffs Coordinating Committee, National Wildlife Federation, and the Sierra Club also urged that since the Water Quality Improvement Act of 1970 (Public Law 91-244) only requires certification of compliance with applicable water quality standards for projects for which construction was begun after April 3, 1970, the Commission is constrained, under the National Environmental Policy Act of 1969, to determine what water quality standards should be applied to facilities under construction before April 3, 1970, and whether the facility will conform to them. The Commission remains of the view that the requirements of section 21(b) of the Federal Water Pollution Control Act supercede pro tanto the more general environmental requirements of sections 102 and 103 of the National Environmental Policy Act of 1969. It should be noted, however, that Appendix D has been revised to (1) indicate that water quality aspects of the proposed action should be discussed in Applicant's Environmental Reports and in Detailed Statements and (2) provide for the inclusion in construction permits and operating licenses of conditions requiring compliance with the applicable requirements of section 21(b).

One comment urged that the atomic safety and licensing board should hear evidence concerning environmental matters, pass on the adequacy of the Detailed Statement and make findings concerning environmental impact. Other comments pertained to the content of the Applicant's Environmental Report and the Detailed Statement, service of copies, notification of parties, and admissibility of such Reports, Statements, and other material relating to environmental protection in evidence. Under revised Appendix D, Environmental Reports, Detailed Statements, and other material dealing with environmental effects could be introduced in evidence and made a part of the record for decision in facility licensing proceedings under the above-described circumstances. If such material were offered and/or received in evidence, Commission rules pertaining to evidentiary material would, of course, apply. Copies of FEDERAL REGISTER notices of the availability of Environmental Reports and draft Detailed Statements and information pertaining to agencies receiving and requesting copies of such Reports and comments will be available on request, without specific provision in Appendix D.

It was also requested that the Federal, State, and local agencies having jurisdiction by law or special expertise with respect to environmental impact to which applicable Environmental Reports are submitted, and agencies authorized to develop and enforce environmental standards, be identified. The Commission does not consider it practical to do so in the regulation, since the particular agencies having expertise may not necessarily be the same in each case. With respect to State and local agencies, the notice provided in the FEDERAL REGISTER and the notice provided to the Governor of the State in which the facility is to be located are intended to assure that the appropriate agencies are notified.

Several comments evidenced some uncertainty concerning the statement in paragraph 5 of Appendix D to the effect that, with respect to the operation of nuclear power reactors, it is expected that in most cases the Detailed Statement will be prepared only in connection with the first licensing action that authorizes full power operation of the facility.

The intent of that statement was to identify the particular operating licensing action in connection with which the Detailed Statement would be prepared, not to imply that a Detailed Statement would be omitted at the construction permit stage. This has been made clear in revised Appendix D set out below.

One comment suggested that the requirement for the submission of Applicant's Environmental Reports be modified to permit submission as soon after the submission of the application as practicable. In view of the desirability of an early resolution of questions related to the environmental impact of nuclear facilities, as indicated in the interim guidelines published by the Council on

[2] The suggestions of those commentators were also the subject of a petition for rulemaking by the same persons. The petition was denied in a notice published in the FEDERAL REGISTER on Aug. 6, 1970 (35 F.R. 12566). The notice of denial stated that the Commission would consider carefully, and address itself to, the matter raised by the petition for rulemaking in the instant rulemaking proceeding. The same suggestions were also made by Scenic Shoreline Preservation Conference, Inc., in a petition for rulemaking filed July 13, 1970. The discussion herein is also applicable to the suggestions contained in that petition.

Environmental Quality on May 12, 1970 (35 F.R. 7390), it is not considered advisable to extend the time for filing such Reports.

The Atomic Energy Council of the State of New York and the General Electric Co., in their comments, requested clarification of proposed Appendix D with respect to determinations as to the applicability and validity of, and compliance with, State standards and requirements for the protection of the environment. Paragraphs 11, 12, and 13 in revised Appendix D clarify those matters.

A suggestion was made that comments on Applicant's Environmental Reports at the operating license stage be solicited from Federal and State agencies only as to environmental considerations that differ significantly from those discussed in the Environmental Report previously submitted with the application for a construction permit. Paragraphs 3 and 4 of revised Appendix D provide that such comments will be requested only as to environmental matters that differ significantly from those considered at the construction permit stage.

It may be noted that the Commission would, as a matter of practice, routinely send a copy of Applicant's Environmental Reports and of Detailed Statements to the Governor of any affected State(s) or his designee(s). It should also be noted that the Commission intends to provide appropriate guidance as to the scope and content of Applicant's Environmental Reports.

In its consideration of Appendix D, the Commission has recognized the public interest in protecting the environment as well as the public interest in avoiding unreasonable delay in meeting the growing national need for electric power.

The public is demanding substantially more electric power, and it is expecting the power to be available, without shortages or blackouts. Electric power use in the United States has been doubling about every 10 years. If prevailing growth pattern and pricing policies continue, electric power capacity may need to triple or quadruple in the next two decades. Meanwhile during the coming winter and summer and for the next few years, there is a real electric power and fuel crisis in this country.[4]

[4] Chairman Nassikas of the Federal Power Commission stated, at hearings before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, on August 3, 1970: "The current situation is such that little leeway remains for additional delays if the country is to avoid critical future shortages in meeting anticipated real power needs."

In a "Statement on the Fuel Situation for the Winter of 1970–71," Paul W. McCracken, Chairman, Council of Economic Advisers, and General George A. Lincoln, Director, Office of Emergency Preparedness, said:

"We have continued to study the energy supply situation and find that as winter approaches the nation faces a potential shortage in the supplies of natural gas, residual fuel oil and bituminous coal. The potential shortage appears to be more serious in some regions of the country than in others, but no section is completely immune from concern."

Various authoritative statements and reports have stressed that the urgent near term need for electric power requires that delays be held to an absolute minimum. Also reports looking to the implementation of improved institutional arrangements on siting of power plants recommend procedures for expediting the process consistent with protection of the environment. Thus in the Report "Electric Power and the Environment" published by the Energy Policy Staff of the Office of Science and Technology in August 1970, in which all of the Federal agencies responsible for environmental and power programs participated, the Basic Findings stated:

> New public agencies and review procedures must take into account the positive necessity for expediting the decision-making process and avoiding undue delays in order to provide adequate electric power on reasonable schedules while protecting the environment.

The Commission believes that revised Appendix D takes into account the necessity for avoiding undue delays in order to provide adequate electric power and that it reflects a balanced approach toward carrying out the Commission's environmental protection responsibilities under the National Environmental Policy Act of 1969 and the Atomic Energy Act of 1954, as amended. Its main concern here has been to find out and strike a reasonable balance of those considerations in the overall public interest. The Commission expects that revised Appendix D will be implemented to that end.

Pursuant to the National Environmental Policy Act of 1969, the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment of Title 10, Chapter 1, Code of Federal Regulations, Part 50 is published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER. The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with the amendment to send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Consideration will be given to such submission with the view to possible further amendments. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Appendix D is revised to read as follows:

APPENDIX D—STATEMENT OF GENERAL POLICY AND PROCEDURE: IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (PUBLIC LAW 91–190)

On January 1, 1970, the National Environmental Policy Act of 1969 (Public Law 91–190) became effective. The stated purposes of that Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Section 101(b) of that Act provides that, in order to carry out the policy set forth in the Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources toward certain stated ends.

In section 102 of the National Environmental Policy Act of 1969 the Congress authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in the Act. All agencies of the Federal Government are required, among other things, to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on certain specified environmental considerations. Prior to making the detailed statement, the responsible Federal official is required to consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

Since the enactment of the National Environmental Policy Act of 1969, the President has issued Executive Order 11514, dated March 5, 1970, in furtherance of the purpose and policy of that Act, and the Council on Environmental Quality established by title II of that Act has issued interim guidelines to Federal departments, agencies and establishments for the preparation of the detailed statements on environmental considerations (35 F.R. 7390, May 12, 1970).

On April 3, 1970, the Water Quality Improvement Act of 1970 (Public Law 91-224) became effective. That Act redesignated section 11 of the Federal Water Pollution Control Act as section 21 and amended redesignated section 21 to require, in subsection 21(b)(1), any applicant for a Federal license or permit to conduct any activity, including the construction or operation of a facility, which may result in any discharge into the navigable waters of the United States, to provide the Federal licensing agency a certification from the State in which the discharge originates, or from an interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates, or the Secretary of the Interior, in cases where water quality standards have been promulgated by the Secretary under section 10(c) of the Federal Water Pollution Control Act or where the State or interstate agency has no authority to give such certification, that there is reasonable assurance, as determined by such certifying authority, that the activity will be conducted in a manner which will not violate applicable water quality standards.

The Commission expressly recognizes the positive necessity for expediting the decision-making process and avoiding undue delays in order to provide adequate electric power on reasonable schedules while at the same time protecting the quality of the environment. It expects that its responsibilities under the National Environmental Policy Act of 1969, as set out below, and the Federal Water Pollution Control Act, will be carried out in a manner consistent with this policy in the overall public interest.

Pending the issuance of further guidance by the Council on Environmental Quality

and consistent with the public interest in avoiding unreasonable delay in meeting the growing national need for electric power, the Commission will exercise its responsibilities under the National Environmental Policy Act and the Atomic Energy Act of 1954, as amended, as follows:

1. Each applicant for a permit to construct a nuclear power reactor or a fuel reprocessing plant shall submit with his application one hundred and fifty (150) copies, including one reproducible copy, of a separate document, to be entitled "Applicant's Environmental Report—Construction Permit Stage," which discusses the following environmental considerations:

(a) The environmental impact of the proposed action,

(b) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(c) Alternatives to the proposed action,

(d) The relationship between local short-term uses of man's environment and the maintenance and enchancement of long-term productivity, and

(e) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Each holder of a permit to construct a nuclear power reactor or a fuel reprocessing plant issued without the Detailed Statement described in paragraph 5 having been prepared, who has not filed an application for an operating license, shall submit one hundred and fifty (150) copies, including one reproducible copy, of an Environmental Report as soon as practicable.

2. Each applicant for a license to operate a nuclear power reactor or a fuel reprocessing plant shall submit with his application one hundred and fifty (150) copies, including one reproducible copy, of a separate document, to be entitled "Applicant's Environmental Report—Operating License Stage," which discusses the same environmental considerations described in paragraph 1, but only to the extent that they differ significantly from those discussed in the Applicant's Environmental Report previously submitted with the application for a construction permit, if any. The "Applicant's Environmental Report—Operating License Stage" may incorporate by reference any information contained in the Applicant's Environmental Report previously submitted with the application for a construction permit, if any. With respect to the operation of nuclear power reactors, the applicant, unless otherwise required by the Commission, shall submit the "Applicant's Environmental Report—Operating License Stage" only in connection with the first licensing action that would authorize full-power operation of the facility.[1]

3. After receipt of any Applicant's Environmental Report, the Director of Regulation or his designee will analyze the report and prepare a draft Detailed Statement of environmental considerations. The draft Detailed Statement may consist, in whole or in part, of the comments of the Director of Regulation or his designee on the Applicant's Environmental Report. The Commission will then transmit a copy of the report and of the draft Detailed Statement to such Federal agencies designated by the Council on Environmental Quality as having "jurisdiction by law or special expertise with respect to any environmental impact involved" or as "authorized to develop and enforce environmental standards" as the Commission determines are appropriate, with a request for comment on the report and the draft Detailed Statement within thirty (30) days.[2] Comments on an "Applicant's Environmental Report—Operating License Stage" and on the draft Detailed Statement prepared in connection therewith will be requested only as to environmental matters that differ significantly from those previously considered at the construction permit stage. The Commission may extend the period for comment if it determines that such an extension is practicable. If any such Federal agency fails to provide the Commission with comments within thirty (30) days after the agency's receipt of the report and draft Detailed Statement or such later date as may have been specified by the Commission, it will be presumed that the agency has no comment to make.

4. Upon receipt of any Applicant's Environmental Report and preparation of a draft Detailed Statement in connection therewith, the Commission will cause to be published in the FEDERAL REGISTER a summary notice of the availability of the report and the draft Statement. (In accordance with § 2.101(b) of Part 2, the Commission will also send a copy of the application to the Governor or other appropriate official of the State in which the facility is to be located and will publish in the FEDERAL REGISTER a notice of receipt of the application, stating the purpose of the application and specifying the location at which the proposed activity will be conducted.) The summary notice to be published pursuant to this paragraph will request, within sixty (60) days or such longer period as the Commission may determine to be practicable, comment on the proposed action and on the report and the draft Statement, from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards. Comments on an Applicant's Environmental Report—Operating License Stage and the draft Detailed Statement prepared in connection therewith will be requested only as to environmental matters that differ significantly from those previously considered at the construction permit stage. The summary notice will also contain a statement to the effect that a copy of the report and the draft Statement and comments of Federal agencies thereon will be supplied to such State and local agencies on request. If any such State or local agency fails to provide the Commission with comments within sixty (60) days of the publication of the summary notice or such later date as may have been specified by the Commission, it will be presumed that the agency has no comment to make.

5. After receipt of the comments requested pursuant to paragraphs 3. and 4., the Director of Regulation or his designee will prepare a final Detailed Statement on the environmental considerations specified in paragraph 1., including, where appropriate, a discussion of problems and objections raised by Federal, State, and local agencies and the disposition thereof. In preparing the Detailed Statement, the Director of Regulation or his designee may rely, in whole or in part, on, and may incorporate by reference, the appropriate Applicant's Environmental Report, and the comments submitted by Federal, State, and local agencies pursuant to paragraphs 3. and 4., as well as the regulatory staff's radiological safety evaluation. The Detailed Statement will relate primarily to the environmental effects of the facility that is subject to the licensing action involved.

Detailed Statements prepared in connection with an application for an operating license will cover only those environmental considerations which differ significantly from those discussed in the Detailed Statement previously prepared in connection with the application for a construction permit and may incorporate by reference any information contained in the Detailed Statement previously prepared in connection with the application for a construction permit. With respect to the operation of nuclear power reactors, it is expected that in most cases the Detailed Statement will be prepared only in connection with the first licensing action that authorizes full-power operation of the facility.[3]

6. With respect to water quality aspects of the proposed action covered by section 21(b) of the Federal Water Pollution Control Act, the Environmental Reports submitted by applicants pursuant to paragraphs 1. and 2. and the Detailed Statements prepared pursuant to paragraph 5. shall include a reference to the certification issued pursuant to section 21(b) or applied for or to be applied for pursuant to that section, or to the basis on which such certification is not required. Such reports and statements shall include a discussion of the water quality aspects of the proposed action, whether or not they are covered by section 21(b) of the Federal Water Pollution Control Act.[4]

7. The Commission will transmit to the Council on Environmental Quality copies of (a) each Applicant's Environmental Report, (b) each draft Detailed Statement, (c) comments thereon received from Federal, State, and local agencies, and (d) each Detailed Statement prepared pursuant to paragraph 5. Copies of such reports, draft statements, comments and statements will be made available to the public as provided by section 552 of title 5 of the United States Code, and will accompany the application through the Commission's review processes. After each Detailed Statement becomes available, a notice of its availability will be published in the FEDERAL REGISTER.

8. With respect to proceedings which take place in the transitional period required to establish the new procedures described in this appendix, it is recognized that the Detailed Statements may not be as complete as they will be after there has been an opportunity to coordinate these procedures with the other agencies involved, and, further, that some period of time may be required before full compliance with the procedures themselves can be achieved.

9. The Commission will incorporate in all construction permits and operating licenses for power reactors and fuel reprocessing plants, whenever issued, a condition, in addition to any conditions imposed pursuant to paragraphs 12 and 14, to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved. This condition will not apply to (a) radiological effects since radiological effects are

[1] This report is in addition to the report required at the construction permit stage.

[2] A draft Detailed Statement will not be prepared in cases where the Applicant's Environmental Report has been transmitted to the cognizant agencies for comment prior to Dec. 4, 1970.

[3] This Statement is in addition to the Statement prepared at the construction permit stage.

[4] With respect to water quality aspects of the proposed action covered by said section 21(b), such a discussion need not be included in cases where the Applicant's Environmental Report has been submitted by the applicant prior to Dec. 4, 1970.

dealt with in other provisions of the construction permit and operating license, or (b) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act since the requirements of section 21(b) supersede pro tanto the more general requirements of sections 102 and 103 of the National Environmental Policy Act of 1969.[5] This condition shall also not be construed as extending the jurisdiction of this agency to making an independent review of standards or requirements validly imposed pursuant to authority established under Federal and State law.

10. The Commission believes that the preservation of environmental values can best be accomplished through the establishing of environmental quality standards and requirements by appropriate Federal, State, and regional agencies having responsibility for environmental protection. The Commission urges the appropriate agencies to proceed promptly to establish such standards and requirements.

11. (a) Any party to a proceeding for the issuance of a construction permit or an operating license for a nuclear power reactor or a fuel reprocessing plant may raise as an issue in the proceeding whether the issuance of the permit or license would be likely to result in a significant, adverse effect on the environment. If such a result were indicated, in accordance with the declaration of national policy expressed in the National Environmental Policy Act of 1969, consideration will be given to the need for the imposition of requirements for the preservation of environmental values consistent with other essential considerations of national policy, including the need to meet on a timely basis the growing national requirements for electric power. The above-described issues shall not be construed as including (a) radiological effects, since radiological effects are considered pursuant to other provisions of this part or (b) matters of water quality covered by section 21(b) of the Federal Water Pollution Control Act. This paragraph applies only to proceedings in which the notice of hearing in the proceeding is published on or after March 4, 1971.

(b) With respect to those aspects of environmental quality for which environmental quality standards and requirements have been established by authorized Federal, State, and regional agencies, proof that the applicant is equipped to observe and agrees to observe such standards and requirements will be considered a satisfactory showing that there will not be a significant, adverse effect on the environment. Certification by the appropriate agency that there is reasonable assurance that the applicant for the permit or license will observe such standards and requirements will be considered dispositive for this purpose.

(c) In any event, there will be incorporated in construction permits and operating licenses a condition to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved.

12. If any party to a proceeding for the issuance of a construction permit or an operating license for a nuclear power reactor or a fuel reprocessing plant raises any issue described in paragraph 11, the Applicant's Environmental Report and the Detailed Statement will be offered in evidence. The atomic safety and licensing board will make findings of fact on, and resolve, the matters in controversy among the parties with regard to those issues. Depending on the resolution of those issues, the permit or license may be granted, denied, or appropriately conditioned to protect environmental values.

13. When no party to a proceeding for the issuance of a construction permit or an operating license for a nuclear power reactor or a fuel reprocessing plant raises any issue described in paragraph 11, such issues will not be considered by the atomic safety and licensing board. Under such circumstances, although the Applicant's Environmental Report, comments thereon, and the Detailed Statement will accompany the application through the Commission's review processes, they will not be received in evidence, and the Commission's responsibilities under the National Environmental Policy Act of 1969 will be carried out in toto outside the hearing process.

14. The Commission will incorporate in all construction permits and operating licenses for power reactors and fuel reprocessing plants, whenever issued, a condition, in addition to any conditions imposed pursuant to paragraphs 9 and 12, to the effect that the licensee shall comply with all applicable requirements of section 21(b) of the Federal Water Pollution Control Act.

Nothing in this Appendix shall be construed as affecting (a) the manner in which the Commission obtains advice from other agencies, Federal and State, with respect to the control of radiation effects, or (b) the other, and separate, provisions of the construction permit and operating license which deal with radiological effects.

Procedures and measures similar to those described in the preceding paragraphs of this appendix will be followed in proceedings other than those involving nuclear power reactors and fuel reprocessing plants when the Commission determines that the proposed action is one significantly affecting the quality of the human environment. The Commission has determined that such proceedings will ordinarily include proceedings for the issuance of the following types of materials licenses: (a) Licenses for possession and use of special nuclear material for fuel element fabrication, scrap recovery and conversion of uranium hexafluoride; (b) licenses for possession and use of source material for uranium milling and production of uranium hexafluoride; and (c) licenses authorizing commercial radioactive waste disposal by land burial. The procedures and measures to be followed with respect to materials licenses will, of course, reflect the fact that, unlike the licensing of production and utilization facilities, the licensing of materials does not require separate authorizations for construction and operation. Ordinarily, therefore, there will be only one Applicant's Environmental Report required and only one Detailed Statement prepared in connection with an application for a materials license. If a proposed subsequent licensing action involves environmental considerations which differ significantly from those discussed in the Environmental Report filed and the Detailed Statement previously prepared in connection with the original licensing action, a supplementary Environmental Report will be required and a supplementary Detailed Statement will be prepared.

(Sec. 102, 83 Stat. 853; secs. 3, 161; 68 Stat. 922, 948, as amended; 42 U.S.C. 2013, 2201)

Dated at Washington, D.C., this 3d day of December 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[F.R. Doc. 70-16450; Filed, Dec. 3, 1970; 11:59 a.m.]

[5] Paragraph 14 provides for the inclusion of a separate condition requiring compliance with applicable requirements of section 21(b) of the Federal Water Pollution Control Act.

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 125]

[Docket No. FDC-78]

FOOD FOR SPECIAL DIETARY USES; LABEL STATEMENTS RELATING TO INFANT FOOD

Extension of Time for Filing Exceptions to Proposed Findings of Fact, Conclusion, and Tentative Order Following Public Hearing

The notice published in the FEDERAL REGISTER of October 29, 1970 (35 F.R. 16737), setting forth proposed findings of fact, proposed conclusion, and tentative order concerning labeling foods for special dietary use for infants, provided for the filing of written exceptions within 30 days after said date by any interested person whose appearance was filed at the hearing.

The Commissioner of Food and Drugs has received a request to extend such time and, good reason therefor appearing, the time for filing exceptions in this matter is extended to December 28, 1970.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(j), 701(e), 52 Stat. 1046, as amended, 1048, 1055, as amended; 21 U.S.C. 341, 343(j), 371(e)), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 25, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-16287; Filed, Dec. 3, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 905]

ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Approval of Expenses and Rate of Assessment for 1970-71 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Growers Administrative Committee, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(a) That expenses that are reasonable and likely to be incurred by the Growers Administrative Committee during the period August 1, 1970, through July 31, 1971, will amount to $168,000.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 905.41, be fixed at $0.006 per standard packed box.

(c) That unexpended assessment funds in excess of expenses incurred during the fiscal period ended July 31, 1970, be carried over as a reserve in accordance with § 905.42 of said marketing agreement and order.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

Dated: November 30, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-16280; Filed, Dec. 3, 1970; 8:48 a.m.]

[7 CFR Part 953]

IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Notice of Proposed Rule Making

Consideration is being given to termination of Rules and Regulations Subpart 7 CFR §§ 953.101-953.116, which was recommended by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953). This marketing order program regulates the handling of Irish potatoes grown in designated counties in Virginia and North Carolina and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Recommendation for termination of certain current rules and regulations was made by the committee subsequent to the recent amendment of the marketing agreement and order because either: (1) the provisions contained in 7 CFR §§ 953.101-953.116 are no longer applicable due to deletions to the marketing agreement and order pursuant to amendments thereto; (2) the restrictions are obsolete, and no longer applicable, and not in conformity with provisions presently contained in the order; or (3) duplicate provisions in the current limitation of shipments regulation.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, no later than the 30th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

The provisions of 7 CFR §§ 953.101-953.116 are hereby terminated.

Dated: December 1, 1970.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-16315; Filed, Dec. 3, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10714]

ROLLS-ROYCE DART ENGINE MODELS 506, 510, 511, 511-7E, 514, AND 514-7

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Rolls-Royce Dart engine models 506, 510, 511, 511-7E, 514, and 514-7 installed on, but not necessarily limited to, British Aircraft Corporation Viscount 744 and 745D; Fairchild F-27 and F-27B; and Fokker F-27 airplanes certificated in all categories. There have been failures of the LP turbine disc retaining bolt caused by stress corrosion that could result in release of the disc from the engine. Since this condition is

likely to exist or develop in other engines of the same type, the proposed airworthiness directive would require the replacement of Rolls-Royce turbine disc retaining bolt P/N RK 33044 with P/N RK 43376 on Rolls-Royce Dart engine models 506, 510, 511, 511–7E, 514, and 514–7.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before January 4, 1971, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive.

ROLLS-ROYCE. Applies to Rolls-Royce Dart engine models 506, 510, 511, 511–7E, 514, and 514–7 installed on, but not necessarily limited to British Aircraft Corporation Viscount 744 and 745D; Fairchild F-27 and F-27B; and Fokker F-27 airplanes.

Compliance is required as indicated, unless already accomplished.

(a) For all engines installed on airplanes having an average daily utilization rate of more than three hours' flight time per day, comply with paragraph (c) within the next 4,000 hours' time in service after the effective date of this AD, or at the next engine overhaul, whichever occurs first.

(b) For all engines installed on airplanes having an average daily utilization rate of three hours' flight time or less per day, comply with paragraph (c) within the next 2,000 hours' time in service after the effective date of this AD, or at the next engine overhaul, whichever occurs first.

(c) Replace Rolls-Royce turbine disc retaining bolt P/N RK 33044 with P/N RK 43376 in accordance with Rolls-Royce Dart Aero Engine Service Bulletin Number Da 72–347, Revision 2, dated July 24, 1970, or later ARB-approved revision, or an FAA-approved equivalent.

(d) For the purpose of complying with this AD, the average daily utilization rate shall be determined on the basis of the average daily utilization rate for the 12-month period immediately preceding the effective date of this AD.

Issued in Washington, D.C., on November 25, 1970.

HARRY A. TURNPAUGH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70–16250; Filed, Dec. 3, 1970; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70–SO–97]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Trenton, Tenn., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, TN 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Trenton transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Gibson County Airport (lat. 35°56'02" N., long. 88°50'54" W.); excluding the portion within the Humboldt, Tenn., transition area.

The proposed designation is required for controlled airspace protection for IFR operations in the Trenton area. A prescribed instrument approach procedure, utilizing Dyersburg, Tenn., VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 25, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70–16251; Filed, Dec. 3, 1970; 8:45 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 70–AL–12]

JET ROUTE SEGMENT

Proposed Realignment

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign the segment of Jet Route No. 501 between Anchorage, Alaska, and Bethel, Alaska.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number be submitted in triplicate to the Director, Alaska Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

A segment of J–501 is presently aligned from the Anchorage, Alaska, VORTAC direct to the Bethel, Alaska, VORTAC with a minimum en route altitude of Flight Level 240. If the proposal contained in this docket is adopted, J–501 segment would be realigned from the Anchorage VORTAC, direct to the Sparrevohn, Alaska, RBN, direct to the Bethel VORTAC.

The proposed realignment of J–501 would permit the lowering of the MEA to 18,000 feet MSL. This would lower the base of J–501 to the upper limit of Green Federal airway No. 9.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on November 24, 1970.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 70–16252; Filed, Dec. 3, 1970; 8:45 a.m.]

National Highway Safety Bureau

[49 CFR Part 574]

[Docket No. 70–12; Notice 3]

TIRE IDENTIFICATION AND RECORD KEEPING

Proposed Interim Procedures

On November 10, 1970, the National Highway Safety Bureau published a regulation concerning tire identification and record keeping (35 F.R. 17257) requiring all tires manufactured after May 1, 1971, to have an identification number and requiring tire manufacturers to maintain a record of the purchasers of these tires. The regulation as published is not, however, applicable to tires

sold after May 1, 1971, but manufactured before that date.

The distribution pattern of tires is such that dealers will be selling tires manufactured prior to May 1, 1971, for several years after the effective date of the regulation. In order to take effective action in the case of tire defects or nonconformity with the standards, a method should be established to obtain and maintain the names of the purchasers of these tires. Therefore, this notice proposes an interim procedure that would require tire manufacturers, brand name owners and retreaders to maintain the name and address of purchasers of tires sold after May 1, 1971, but manufactured before that date.

In consideration of the foregoing, it is proposed that Title 49—Transportation, Chapter V, Department of Transportation, National Highway Safety Bureau, Subchapter A—Motor Vehicle Safety Regulations, Part 574, Tire Identification and Record Keeping, be amended by adding § 574.10, Interim procedures, as set forth below.

Proposed effective date: May 1, 1971.

Interested persons are invited to submit written data, views, and arguments concerning the proposed standard. Comments should refer to Docket No. 70-12, Notice 3, and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223A, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on January 18, 1971 will be considered, and will be available for examination in the docket room at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice is issued under the authority of sections 103, 112, 113, 119, and 201 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1401, 1402, 1407, and 1421) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 30, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

§ 574.10 Interim procedures.

The following interim procedures shall apply to tires that are manufactured before the effective date of this regulation (May 1, 1971) but sold after the effective date.

(a) Each tire manufacturer, brand name owner and retreader shall:

(1) Provide a means by which the distributor or dealer can record information that will enable the manufacturer, brand name owner or retreader to determine the names and addresses of tire purchasers.

(2) Record and maintain, or have recorded and maintained for him, the information specified in subparagraph (1) of this paragraph, and not use this information for any commercial purpose detrimental to tire distributors or dealers.

(3) Maintain the information for a period of not less than 3 years from the date the tire manufacturer or his designee records the information submitted to him.

(b) Each distributor and each dealer selling tire manufactured before May 1, 1971, shall meet the requirements of § 574.7, except that the information to be submitted to the tire manufacturer may be the information specified in paragraph (a) (1) of this section.

(c) (1) Each motor vehicle dealer who sells a used motor vehicle for purposes other than resale, or who leases a motor vehicle for more than 60 days, that is equipped with new tires or newly retreaded tires manufactured before May 1, 1971, shall meet the requirements of paragraph (b), of this section.

(2) Each motor vehicle dealer who sells a new motor vehicle to first purchasers for purposes other than resale that is equipped with new tires manufactured before May 1, 1971, that were not on the motor vehicle when shipped by the vehicle manufacturer shall meet the requirements of paragraph (b) of this section.

(d) Each motor vehicle manufacturer shall maintain a record of tires manufactured before May 1, 1971, on or in each vehicle shipped by him to a motor vehicle distributor or dealer, and shall maintain a record of the name and address of the first purchaser for purposes other than resale of each vehicle equipped with such tires. These records shall be maintained for a period of not less than 3 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

[F.R. Doc. 70-16295; Filed, Dec. 3, 1970; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release No. 33-5111]

REGISTRATION STATEMENTS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration proposed amendments to Forms S-1 [17 CFR 239.11], S-9 [17 CFR 239.22], and S-11 [17 CFR 239.18] under the Securities Act of 1933. Form S-1 is a general form for registration of securities under the Act; Form S-9 is an optional form for registration of non-convertible, fixed interest, debt securities; and Form S-11 is used for registration of securities of certain real estate companies.

The amendments to Form S-1 would include in the instructions as to financial statement provisions for the furnishings of source and application of funds statements for each fiscal year or other period for which a profit and loss statement is required. This amendment would conform the requirements of Form S-1 to those of the recently revised Forms 10 [17 CFR 249.210] and 10-K [17 CFR 249.310] under the Securities Exchange Act of 1934. The Commission has under consideration certain other amendments to Form S-1 on which comments will be invited at a later date.

The amendments to Form S-9 would revise Item 3 of the form which requires the furnishing of a 5-year summary of earnings. The revision would conform the item and the instructions thereto to the corresponding item of the recently revised Form S-7 [17 CFR 239.26], including a requirement for the furnishing of statements of source and application of funds. Item 5(a) of the form would be amended to state specifically that the required balance sheets are to be prepared in accordance with Regulation S-X [17 CFR 210].

This first paragraph of the instructions as to financial statements in Form S-11 would be amended to refer to "financial statements" rather than to "balance sheets and profit and loss statements," in order to include statements of source and application of funds.

The text of the proposed amendments are set forth in Release 33-5111, copies of which have been filed as part of this document with the Office of the Federal Register. Additional copies of this release are available at the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to Orval L. DuBois, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before December 20, 1970. All such communication will be deemed available for public inspection.

By the Commission, November 20, 1970.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-16263; Filed, Dec. 3, 1970; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

SYLVESTER ASKINS

Notice of Granting of Relief

Notice is hereby given that Sylvester Askins, 301 West 26th Street, Norfolk, VA 23517, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 7, 1942, in the U.S. District Court for the Eastern District of Virginia, Norfolk, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Sylvester Askins because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Sylvester Askins to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Sylvester Askins' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144; *It is ordered,* That Sylvester Askins be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16316; Filed, Dec. 3, 1970; 8:50 a.m.]

ARNOLD F. BREHMER

Notice of Granting of Relief

Notice is hereby given that Arnold F. Brehmer, Box 213, Peterson, IA 51047, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possesion of firearms incurred by reason of his conviction on March 5, 1968, in the U.S. District Court, in Fort Dodge, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Arnold F. Brehmer because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Arnold F. Brehmer to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Arnold F. Brehmer's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Arnold F. Brehmer be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 19th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16317; Filed, Dec. 3, 1970; 8:51 a.m.]

JERRY LEE CARROLL

Notice of Granting of Relief

Notice is hereby given that Jerry Lee Carroll, Route 7, Box 476, Newnan, GA, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on March 8, 1965 and March 18, 1967, in the Superior Courts for Coweta and Fayette Counties, Ga., respectively, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jerry L. Carroll because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Jerry Lee Carroll to receive, possess, or transport in commerce, any firearm.

Notice is hereby given that I have considered Jerry L. Carroll's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Jerry L. Carroll be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 20th day of November 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-16318; Filed, Dec. 3, 1970; 8:51 a.m.]

LEROY V. CLURE

Notice of Granting of Relief

Notice is hereby given that Leroy V. Clure, Rural Route 1, Box 344, Eagle River, WI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 16, 1955, Oneida County Court, Rhinelander, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Leroy V. Clure because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such conviction, it would be unlawful for Leroy V. Clure to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Leroy V. Clure's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Leroy V. Clure be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16319; Filed, Dec. 3, 1970; 8:51 a.m.]

THEODORE ELLIOT

Notice of Granting of Relief

Notice is hereby given that Theodore Elliot, 15428 Wabash, Detroit, MI 48238, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 17, 1924, in the Circuit Court of Warren County, Vicksburg, Miss., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Theodore Elliot because of such conviction to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Theodore Elliot to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Theodore Elliot's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Theodore Elliot be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 24th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16320; Filed, Dec. 3, 1970; 8:51 a.m.]

RALPH JOSEPH GUTHRIE

Notice of Granting of Relief

Notice is hereby given that Ralph Joseph Guthrie 113 14th Street SE., Roanoke, VA 24013, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 13, 1961, in the Hustings Court of the city of Roanoke, Va., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ralph Joseph Guthrie because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ralph Joseph Guthrie to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ralph Joseph Guthrie's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been establishd to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Ralph Joseph Guthrie be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 20th day of November 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-16321; Filed, Dec. 3, 1970; 8:51 a.m.]

EUGENE HANNA

Notice of Granting of Relief

Notice is hereby given that Eugene Hanna, Rolfe, Iowa 50581, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 21, 1965 in the District Court, Algona, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Eugene Hanna because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Eugene Hanna to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Eugene Hanna's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Eugene Hanna be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16322; Filed, Dec. 3, 1970; 8:51 a.m.]

OLIVER CHARLES HILLIKER

Notice of Granting of Relief

Notice is hereby given that Oliver Charles Hilliker, 7752 Jackson, Taylor, MI 48180, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 21, 1938, in the Circuit Court for the county of Wayne, State of Michigan, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Oliver Charles Hilliker because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Oliver Charles Hilliker to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Oliver Charles Hilliker's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Oliver Charles Hilliker be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16323; Filed, Dec. 3, 1970; 8:51 a.m.]

HARRY L. HASTINGS, SR.

Notice of Granting of Relief

Notice is hereby given that Harry L. Hastings, Sr., 43 Robinwood Drive, Little Rock, AR 72207, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on January 28, 1925, and November 15, 1927, in the U.S. District Court, Eastern District of Arkansas, Western Division, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Harry L. Hastings, Sr., because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Harry L. Hastings, Sr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Harry L. Hastings, Sr.'s application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144, it is ordered that Harry L. Hastings, Sr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 19th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16324; Filed, Dec. 3, 1970; 8:52 a.m.]

DONALD ELMER LEHRE

Notice of Granting of Relief

Notice is hereby given that Donald Elmer Lehre, 19191 Russell, Detroit, MI 48203, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 13, 1952, by the Circuit Court for the County of Macomb, Mount Clemens, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Donald Elmer Lehre because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Donald Elmer Lehre to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald Elmer Lehre's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Donald Elmer Lehre be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to

the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16325; Filed, Dec. 3, 1970; 8:52 a.m.]

MARION EDWARD MADDOX

Notice of Granting of Relief

Notice is hereby given that Marion Edward Maddox, Route 1, Box 37, Esmont, VA, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 8, 1970, in the U.S. District Court for the Western District of Virginia, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Marion E. Maddox because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Marion E. Maddox to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Marion E. Maddox's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Marion E. Maddox be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 19th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16326; Filed, Dec. 3, 1970; 8:52 a.m.]

PAUL JENNINGS OWENS

Notice of Granting of Relief

Notice is hereby given that Paul Jennings Owens, 1334 Balleywood Road, Irving, TX, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 29, 1964, in the 42d District Court of Taylor County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Paul Jennings Owens because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Paul Jennings Owens to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Paul Jennings Owens' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Paul Jennings Owens be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 19th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16327; Filed, Dec. 3, 1970; 8:52 a.m.]

ROGER T. PAULUS

Notice of Granting of Relief

Notice is hereby given that Roger T. Paulus, 658 Evans Street, Oshkosh, WI 54901 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 11, 1957, in the Washington County, Court, West Bend, Washington County, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Roger T. Paulus because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Roger T. Paulus to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Roger T. Paulus' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Roger T. Paulus be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 20th day of November 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-16323; Filed, Dec. 3, 1970; 8:52 a.m.]

DENNIS MAX WADE

Notice of Granting of Relief

Notice is hereby given that Dennis Max Wade, Route 1 Box 875, Dallas, OR 97338 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 5, 1968, in the Circuit Court of the State of Oregon for Polk County of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Wade because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of

the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Dennis Max Wade to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Wade's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Dennis Max Wade be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16329; Filed, Dec. 3, 1970; 8:53 a.m.]

JULIUS WADNESS

Notice of Granting of Relief

Notice is hereby given that Julius Wadness, 41 Portina Road, Brighton, MA, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 9, 1936, in the Suffolk Superior Court, Boston, Mass., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Julius Wadness because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Julius Wadness to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Julius Wadness' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Julius Wadness be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 20th day of November 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-16330; Filed, Dec. 3, 1970; 8:53 a.m.]

JOHN S. WARCHAK

Notice of Granting of Relief

Notice is hereby given that John S. Warchak, 2341 Upper River Road, Macon, GA 31201, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on January 19, 1944, by a general court martial convened at Camp Claiborne, Louisiana, and on February 26, 1968, in the Monroe County, Georgia Superior Court, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for John S. Warchak because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for John S. Warchak to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered John S. Warchak's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That John S. Warchak be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C. this 24th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16331; Filed, Dec. 3, 1970; 8:53 a.m.]

ENNIS BRYAN WOMMACK

Notice of Granting of Relief

Notice is hereby given that Ennis Bryan Wommack, 3977 Durango Street, Dallas, TX 75220, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 18, 1949, in the Criminal District Court No. 2, Dallas County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ennis Bryan Wommack because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ennis Bryan Wommack to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ennis Bryan Wommack's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Ennis Bryan Wommack be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 24th day of November 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-16332; Filed, Dec. 3, 1970; 8:53 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

GADSDEN LIVESTOCK MARKET ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ALABAMA	
Gadsden Livestock Auction, Inc., Gadsden, Oct. 1, 1965.	Gadsden Livestock Market, Oct. 1, 1970.
ARKANSAS	
Stone County Livestock Auction Co., Mountain View, Feb. 19, 1959.	Mountain View Livestock Auction, Oct. 5, 1970.
GEORGIA	
Gainesville Livestock Auction, Gainesville, Dec. 12, 1969.	Gainesville Livestock Auction, Inc., Sept. 1, 1970.
TEXAS	
Wharton County Livestock Market, Wharton, Oct. 26, 1959.	Wharton County Livestock Market, Inc., Jan. 1, 1970.
WYOMING	
Greybull Livestock Commission Company, Greybull, June 28, 1950.	Greybull Livestock Auction, Inc., Sept. 1, 1970.

Done at Washington, D.C., this 23d day of November 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-16313; Filed, Dec. 3, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Education, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00747-00-70000. Applicant: Environmental Science Services Administration, National Environmental Satellite Center, Washington, DC 20233. Article: Optical Interference Filters (Infrared). Manufacturer: Grubb-Parsons and Co., Ltd., United Kingdom.

Intended use of article: The filters are to be used on an infrared temperature profile radiometer for the NIMBUS E weather satellite.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a half band width of 3.5-wave numbers at 668.5-wave numbers.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated August 14, 1970, that 3.5-wave numbers half band width at 668.5-wave numbers is pertinent to the purposes for which the foreign article is intended to be used.

NBS, further, advises that it knows of no domestically manufactured instrument or apparatus that can be used for the applicant's intended purposes.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-16269; Filed, Dec. 3, 1970; 8:47 a.m.]

Maritime Administration

[Docket No. S-259]

STATES STEAMSHIP CO.

Notice of Application

Notice is hereby given that States Steamship Co. has applied for an increase in overall maximum sailings on its subsidized freight ship services on Trade Route No. 29 (U.S. Pacific/Far East) from 74 sailings per annum to 76 sailings per annum, effective for calendar year 1970 only; such increased sailings being as a result of delays to scheduled sailings in December 1969 which were delayed until a manning problem involving several U.S.-flag operators was settled.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should, by the close of business on December 14, 1970, notify the Secretary, Maritime Subsidy Board in writing in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: December 2, 1970.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-16404; Filed, Dec. 3, 1970; 9:23 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-253; NDA No. 5-263, etc.]

CERTAIN SULFONAMIDE OPHTHALMIC OINTMENTS AND OPHTHALMIC AND NASAL SOLUTIONS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Applications

In a notice (DESI 5963) published in the FEDERAL REGISTER of September 10, 1969 (34 F.R. 14248-14250), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the subject drugs, stating that these drugs are regarded as effective, possibly effective, and lacking substantial evidence of effectiveness for the various labeled indications. The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of these drugs has been submitted within the period provided, nor have the applications listed below been satisfactorily supplemented in accordance with the September 10, 1969, announcement.

Therefore, notice is given to the holders of the new-drug applications listed below, and to any interested person who may be adversely affected, that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new-drug applications and all amendments and supplements thereto on the grounds that new information, evaluated together with the evidence available when the applications were approved, shows there is a lack of substantial evidence that the drugs will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

1. NDA 9-496 Thiosulfil Solution; containing sulfamethizole; Ayerst Laboratories, Inc., 685 Third Avenue, New York, New York 10017.

2. NDA 5-963 Sodium Sulamyd Ophthalmic Ointment and Ophthalmic Solution; each containing sodium sulfacetamide; Schering Corp., 60 Orange Street, Bloomfield, New Jersey 07003.

3. NDA 8-605 Sodium Sulfacetamide Ophthalmic Ointment High Potency; containing sodium sulfacetamide; Schering Corp.

4. NDA 7-877 Actilamide Ophthalmic Solution; containing sulfanilamide and chloramine-T; Broemmel Pharmaceuticals, 1235 Sutter Street, San Francisco, California 94109.

In addition to the new-drug applications listed above, a number of other NDA holders have already voluntarily requested withdrawal of approval of their applications for such drugs thereby waiving their opportunity for a hearing; therefore, they are not listed in this notice.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug applications should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug applications. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after the publication of this notice in the FEDERAL REGISTER a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 19, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-16289; Filed, Dec. 3, 1970; 8:48 a.m.]

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1028) has been filed by the Niagara Chemical Division, FMC Corp., 100 Niagara St., Middleport, N.Y. 14105, proposing the establishment of tolerances (21 CFR Part 120) for combined negligible residues of the insecticide endosulfan and its metabolite endosulfan sulfate in or on the raw agricultural commodities grain and straw of barley, oats, rye, and wheat at 0.2 part per million.

The analytical method proposed in the petition for determining the residues of the insecticide is a microcoulometric-gas-chromatographic procedure.

Dated: November 24, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-16286; Filed, Dec. 3, 1970; 8:48 a.m.]

[Docket No. FDC-D-263; NDA No. 6-312]

UPJOHN CO.

P-A-D Tablets; Notice of Withdrawal of Approval of New-Drug Application

In the FEDERAL REGISTER of January 10, 1970 (35 F.R. 396), the Commissioner of Food and Drugs announced (DESI 5597) his conclusions pursuant to evaluating reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, concerning P-A-D Tablets (NDA No. 6-312) containing 2½ grains phenacetin, 3½ grains aspirin, and 2.5 milligrams dimethamphetamine hydrochloride for human use, stating that this drug is regarded as possibly effective for its labeled indications. Six months from the date of that publication were allowed for the holder of the application and any person marketing the drug without approval to obtain and submit data providing substantial evidence of effectiveness of the drug. No data concerning the drug have been received in response to the notice.

The Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, holder of new-drug application No. 6-312, by letter of September 21, 1970, requested withdrawal of approval of the application, thereby waiving opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to such drug, evaluated together with evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it is purported or represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new-drug application No. 6-312, and all amendments and supplements thereto, is withdrawn effective on the date of signature of this document.

Promulgation of this order may cause any related drug for human use offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect, and may make it subject to regulatory proceedings.

Dated: November 19, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-16290; Filed, Dec. 3, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Notice of Availability of Detailed Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and to the Atomic Energy Commission's regulations in 10 CFR Part 50, notice is hereby given that a document entitled "Detailed Statement on the Environmental Considerations by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Related to the Proposed Construction of Davis-Besse Nuclear Power Station by The Toledo Edison Company and The Cleveland Electric Illuminating Company" is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Ida Rupp Public Library, Port Clinton, Ohio, where it will be available for public inspection. Appended to the statement are the applicants' environmental report and the comments of various Federal, State, and local agencies. A public hearing on the application for a construction permit will be held in Port Clinton, Ohio, commencing December 8, 1970.

Single copies of the statement may be obtained by writing to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 30th day of November 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director, Division of Reactor Licensing.

[F.R. Doc. 70-16356; Filed, Dec. 3, 1970; 8:53 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-422]

AIRCRAFT ACCIDENT NEAR HUNTINGTON, W. VA.

Notice of Investigation Hearing

In the matter of investigation of accident involving Southern Airways, Inc., DC-9, N97S, at Huntington, W. Va., on November 14, 1970.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m. (local time), on December 14, 1970, in the Bolero Room of the Frederick Hotel, Fourth Avenue and 10th Street, Huntington, WV.

Dated this 30th day of November 1970.

[SEAL] RICHARD G. RODRIGUEZ,
Senior Hearing Officer.

[F.R. Doc. 70-16270; Filed, Dec. 3, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22773]

AIRBORNE FREIGHT CORP. AND AWAWEGO DELIVERY, INC.

Notice of Proposed Approval of Control Relationships

Application of Airborne Freight Corp. and Awawego Delivery, Inc., for approval of control relationships pursuant to section 408 of the Federal Aviation Act of 1958, as amended, or for exemption therefrom; Docket 22773.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 10 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 30, 1970.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

ORDER APPROVING ACQUISITION

Issued under delegated authority.

Application of Airborne Freight Corp. and Awawego Delivery, Inc., for approval of control relationships pursuant to section 408 of the Federal Aviation Act of 1958, as amended, or for exemption therefrom, Docket 22773.

By joint application filed November 18, 1970, Airborne Freight Corp. (Airborne) and its wholly owned subsidiary, Awawego Delivery, Inc. (Awawego), request approval, without a hearing, of the acquisition by Airborne, through Awawego, of the Interstate Commerce Commission (ICC) Operating Rights (ICC No. MC 127282 Sub. 1) held by Robert L. Parrott, Sr., and Robert L. Parrott, Jr., doing business as Flying Freight (Flying Freight), pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended, (the Act).

Airborne is an air freight forwarder holding authority under Parts 296 and 297 of the Board's economic regulations. Awawego is a common carrier by motor vehicle, operating in New York State.[1] Flying Freight is a common carrier having ICC operating rights to provide transportation for general commodities between points in upstate New York, on the one hand, and Kennedy, La Guardia, and Newark Airports in the New York City metropolitan area, as well as Bradley Field in Connecticut, on the other. Such rights are restricted to traffic having a prior or subsequent movement by air.

Applicants state that on February 18, 1970, Flying Freight was adjudged bankrupt; that an offer to the trustee for the ICC rights of Flying Freight was made by Airborne through its subsidiary, Awawego, on September 18, 1970, and by order entered the same date the court accepted the offer; and that applications for both temporary and permanent approval of the acquisition of the rights have been filed with the ICC. The applicants further state that the purchase price is to be paid entirely in cash ($23,500), there will be no transfer of stock, and there will be no control or interlocking relationships other than those heretofore approved by the Board.

The applicants submit that the transfer of operating rights involves no competitive impact upon any air carrier, does not restrain competition nor does it result in creating a monopoly and will enable Airborne to provide expanded freight service more directly geared to the requirements of its present and future customers.

No comments or requests for hearing have been filed.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished to the Attorney General not later than 1 day following such publication, both in accordance with section 408(b) of the Act.

Upon consideration of the application, it is concluded that the transaction involves the acquisition by an air carrier (Airborne) of a common carrier (Flying Freight) within the meaning of section 408 of the Act, and that Board approval of the transaction is required. However, it is further concluded

[1] By Order E24703, Jan. 31, 1967, the Board approved the acquisition by Airborne of Awawego.

that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in the creation of a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is found that the public interest does not require a hearing. The Board has previously approved similar transactions and the application under review presents no substantive issues which would warrant disapproval.[2] We do not find that the transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing transaction should be approved without hearing under section 408(b) of the Act.

Accordingly, it is ordered, That:

The purchase by Airborne of Flying Freight's operating rights under ICC No. MC 127282 Sub. 1 be and it hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-16311; Filed, Dec. 3, 1970; 8:50 a.m.]

[Docket No. 22580]

TRANS EUROPA COMPANIA DE AVIACION, S.A., AND TRANS CARIBBEAN AIRWAYS, INC.

Notice of Proposed Approval

Joint application of Trans Europa Compania De Aviacion, S.A., and Trans Caribbean Airways, Inc., for approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22580.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 30, 1970.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER OF APPROVAL

Issued under delegated authority.

Joint application of Trans Europa Compania de Aviacion, S.A., and Trans Caribbean Airways, Inc., for approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22580.

Trans Europa Compania de Aviacion, S.A. (Trans Europa), and Trans Caribbean Airways, Inc. (Trans Caribbean), request that the Board approve, without a hearing, pursuant to the third proviso of section 408(b) of the Federal Aviation Act of 1958, as amended, (the Act) the conditional sale of two DC-8F aircraft by Trans Caribbean to Trans Europa.[1]

Trans Europa, a Spanish corporation, owned and controlled by Spanish nationals, holds a permit issued by the Government of Spain to engage in nonscheduled air services between Spain and foreign points. While Trans Europa is not currently engaged in air transportation, it is in the process of securing expanded authority from the Spanish government to engage in commercial air services between Spain and the United States. It also intends to file an application shortly with the Board for a foreign air carrier permit.

Trans Caribbean is an air carrier holding a certificate of public convenience and necessity for operations over Route 137.

In support of its application Trans Caribbean represents that its fleet presently consists of nine jet aircraft, five of the DC-8 series which it owns and an additional DC-8 and three Boeing 727 aircraft which it leases; that because of a reduction in military contract services and other factors, Trans Caribbean has a surplus of equipment which requires the grounding of two aircraft and results in the uneconomical utilization of other equipment; that based upon projections of scheduled and military services for the remainder of the fiscal year, Trans Caribbean will have an average daily utilization of less than 8½ hours on its remaining fleet of seven aircraft; and that under these circumstances, the sale of the two aircraft will not impair Trans Caribbean's ability to perform its obligations under its certificate and to handle commercial charters and military contract services. Trans Caribbean contends that the sale of the unneeded aircraft for some $11 million, payable over a 6-year period, would have the advantage of relieving that financially ailing carrier of the related depreciation and interest charges and provide some needed cash relief.[2]

The parties state that the proposed transaction was negotiated at arm's length and that the purchase price is reasonable in light of current market conditions. They believe that the agreement presents no question of undesirable combination, creation of a monopoly, restraint of competition, or conflict of interest. They also contend that the proposed transaction will not affect the control of an air carrier and is clearly in the public interest.

No comments relative to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application it is concluded that the transaction involves the purchase by a person engaged in a phase of aeronautics (Trans Europa) of a substantial part of the properties of an air carrier (Trans Caribbean) and is subject to section 408 of the Act. In reaching the conclusion that a substantial part of the properties of Trans Caribbean are involved, we note that the two aircraft constitute more than 10 percent in number, more than 10 percent of the market value and more than 10 percent of the total lift capacity of Trans Caribbean's fleet.[3]

However, it is further concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not restrain competition. The transaction is a commercial sale of aircraft which appear to be surplus to the carrier's needs, and thus does not present any new substantive issues and is of the type which the Board has previously approved without a hearing.[4] Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. There is no showing that Trans Caribbean's ability to perform its certificate obligations will be impaired, or that the aircraft is needed in its operations. We therefore find that the transaction will not be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing aircraft purchase transaction should be approved under section 408(b) of the Act without a hearing.

Accordingly, it is ordered, That:

1. The purchase from Trans Caribbean by Trans Europa of two DC-8F-54 aircraft be and it hereby is approved; and

2. This action shall not be deemed a determination for ratemaking purposes of the reasonableness of the transaction.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-16312; Filed, Dec. 3, 1970; 8:50 a.m.]

ENVIRONMENTAL PROTECTION AGENCY

[Interim Order I]

CONTINUITY OF FUNCTIONS

1. *Purpose.* This Interim Order provides for continuity of performance of all functions transferred to the Environmental Protection Agency (hereafter "Agency") under Reorganization Plan

[1] Consummation of the agreement is subject to a number of conditions including the authorization of the Spanish and the United States Governments for commercial operations by Trans Europa between points in those countries.

[2] The Board recently approved an interim assistance agreement between TCA and American Airlines, by which American, which is seeking to acquire control of Trans Caribbean, made $7 million available for additional financing; see Orders 70-6-60 and 70-2-43.

[2] See Airborne, et al., Order 70-7-31, July 7, 1970; and Drake Motor Lines, Inc., et al., Order 68-9-24, Sept. 6, 1968, and Order 68-9-111, Sept. 24, 1968.

[3] See Orders 70-11-13 and 70-11-14, Nov. 7, 1970 (Allegheny-Societe de Travail Aerien and Frontier-Mandala, respectively).

[4] Caledonian Airways (Prestwick) Ltd., Order 69-11-18, Nov. 5, 1969.

No. 3 of 1970, effective December 2, 1970 (hereafter "Plan").

2. *Continuation of rules, regulations, orders, authorizations, and delegations.* All regulations, rules, orders, delegations, authorizations, recommendations, and other actions pertaining to the transferred functions shall remain in full force and effect until suspended or amended, except as otherwise provided herein. The nomenclature changes stated in paragraph 5 below shall be effective with respect to such actions.

3. *Continuation of functions.* All boards, agencies, offices, officers, and employees transferred by the Plan to the Agency shall continue to perform their respective functions and exercise responsibility and authority in accordance with the appointments, assignments of functions, responsibilities, and delegations of authority in effect immediately prior to the transfer, except that the authority to make rules and regulations and to issue notices of rule making shall be exercised by the Administrator of the Environmental Protection Agency.

4. *Authorities of employees not transferred.* Authorities which relate to transferred functions and which immediately prior to the transfer were vested in officers or employees not transferred under the Plan shall be exercised by the Administrator or by officers or employees authorized by the Administrator on or after the effective date of the transfer.

5. *Nomenclature.* The boards, agencies, offices, officers, and employees performing transferred functions and exercising transferred responsibilities and authorities shall perform such functions and exercise such responsibilities and authorities under the nomenclature existing and applicable immediately prior to the transfer, except that (a) "Environmental Protection Agency" shall be substituted for "Department of the Interior." "Department of Health, Education, and Welfare," "Department of Agriculture," "Atomic Energy Commission," or "Federal Radiation Council," as applicable, and (b) "Administrator of the Environmental Protection Agency" shall be substituted for the titles of the heads of the organizations listed in (a) above.

Effective as of the 2d day of December 1970.

WILLIAM D. RUCKELSHAUS,
Acting Administrator,
Environmental Protection Agency.

[F.R. Doc. 70-16362; Filed, Dec. 3, 1970; 8:53 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18549, etc.; FCC 70-1245]

SEABOARD BROADCASTING CORP. AND SENCLAND BROADCASTING SYSTEMS, INC.

Memorandum Opinion and Order Modifying Designation

In the matter of Revocation of License of Seaboard Broadcasting Corp., for standard broadcast station WLAS, Jacksonville, N.C., Docket No. 18549; SENCLand Broadcasting Systems, Inc., Jacksonville, N.C., Requests: 910 kc.; 5 kw., DA-Day for construction permit, Docket No. 18813, File No. BP-18649; Seaboard Broadcasting Corp., Jacksonville, N.C., for renewal of license of station WLAS, Docket No. 18814, File No. BR-2961.

1. The Commission has before it for consideration: (a) A petition for reconsideration of its memorandum opinion and order, FCC 70-272, released March 27, 1970, filed by Seaboard Broadcasting Corp. (Seaboard) on April 24, 1970; (b) an opposition thereto filed by SENCLand Broadcasting Systems, Inc. (SENCLand) on May 13, 1970;[1] (c) a reply to the opposition filed by Seaboard on May 25, 1970; and (d) comments on the petition for reconsideration, filed by the Chief, Broadcast Bureau on May 7, 1970. In our memorandum opinion and order, supra, we consolidated for hearing Seaboard's renewal of license application for standard broadcast station WLAS, Jacksonville, N.C., and SENCLand's mutually exclusive construction permit application, in the above-captioned proceeding for revocation of Seaboard's license for WLAS.

2. In its petition for reconsideration, Seaboard contends that SENCLand's application for a construction permit should be dismissed as required by the newly-adopted provisions of § 73.35 of our rules relating to multiple ownership,[2] since its three majority stockholders are also each one-third owners of WLNS-TV, a UHF television permittee in the same community. Seaboard also seeks the termination of the renewal aspect of its application and deferral of further processing of that application until the conclusion of the pending revocation proceeding. In its opposition, SENCLand alleges that the same AM-UHF combination exception embodied in Note 7 to § 73.636 of the revised rules applies equally to § 73.35. Alternatively, SENCLand requests a waiver of § 73.35 on the grounds that the risks it has taken in UHF development warrant our consideration, and that to deny its request would refuse it an opportunity to obtain a "profitable AM station". As a final alternative, SENCLand's principals request leave to "sell or otherwise dispose of" their interests in, or to "cancel" their permit for, WLNS-TV.

3. Because we have before us in another proceeding (Docket No. 18110) petitions for reconsideration of our First Report and Order relating to recent amendments of the multiple ownership rules, at least one of which petitions proposes, as does SENCLand here, inter alia, that the AM-UHF combination exception contained in Note 7 to § 73.636 of our rules be extended to encompass § 73.35 so that a UHF television permittee or licensee may acquire a standard broadcast facility in the same community, we believe that it is premature at this time to rule directly on the question raised by Seaboard. For this reason, we shall add an issue to this proceeding to determine whether a waiver of § 73.35 would be warranted. In addition, we shall also add an issue to determine whether SENCLand is financially qualified to construct and operate the proposed AM station, in light of the financial commitments of its principals in connection with the construction and operation of station WLNS-TV.

4. A final matter remains for our consideration. In our consolidation order, we found Seaboard qualified as a renewal applicant except for the matters under litigation in the revocation proceeding. Therefore, both the revocation and noncomparative renewal aspects of this proceeding involve precisely the same issues. However, Seaboard has the burden of proof in the renewal aspect (section 309 (e) of the Act), whereas the Commission has the burden of proof in the revocation aspect (section 312(d) of the Act). This potentially confusing situation should be cleared up. Since revocation is a procedure for terminating an operation prior to the specified license term, there is no point in pursuing that remedy now that the specified term has expired. The proper burden is on Seaboard to show that renewal of its license for another term would be in the public interest. Therefore, since the noncomparative issues are the same, we believe that no useful purpose would be served by the prosecution of the show cause order and we shall terminate the revocation aspect of this proceeding.

5. *Accordingly, it is ordered,* That the petition for reconsideration, filed April 24, 1970, by Seaboard Broadcasting Corp., is granted to the extent indicated above and is denied in all other respects.

6. *It is further ordered,* That the proceeding (Docket No. 18549) for revocation of license of Seaboard Broadcasting Corp. for standard broadcast station WLAS, Jacksonville, N.C., is terminated, but that the same noncomparative issues which were originally designated for hearing in the revocation proceeding shall remain in this hearing and be considered with respect to Seaboard's application for renewal of station WLAS.

7. *It is further ordered,* That the issues specified previously in this proceeding are enlarged to include the following issues:

(a) To determine whether, in the light of the facts and circumstances presented, the provisions of § 73.35 of the Commission's rules and regulations should be waived so that the principals of SENCLand Broadcasting Systems, Inc., who own a UHF television station permittee, may acquire a standard broadcast facility in the same community; and

(b) If issue (a) is resolved affirmatively, to determine whether, in addition to the financial commitments made by SENCLand's principals in connection with the construction and operation of

[1] SENCLand was granted an extension of time to May 14, 1970, in which to file its opposition.

[2] See First Report and Order, In the Matter of Amendment of Sections 73.35, 73.240, and 73.636 of the Commission Rules Relating to Multiple Ownership of Standard, FM and Television Broadcast Stations, FCC 70-310, 22 FCC 2d 306, adopted Mar. 25, 1970, released Apr. 6, 1970.

station WLNS–TV, SENCLand Broadcasting Systems, Inc. is financially qualified to construct and operate its proposed standard broadcast station.

Adopted: November 25, 1970.

Released: December 1, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70–16293; Filed, Dec. 3, 1970; 8:49 a.m.]

[Docket No. 18549 etc.; FCC 70R–410]

SEABOARD BROADCASTING CORP. AND SENCLAND BROADCASTING SYSTEMS, INC.

Memorandum Opinion and Order Enlarging Issues

In the matter of revocation of license of Seaboard Broadcasting Corp. For standard broadcast station WLAS, Jacksonville, N.C., Docket No. 18549; SENCLand Broadcasting Systems, Inc., Jacksonville, N.C., for construction permit, Docket No. 18813, File No. BP–18649; Seaboard Broadcasting Corp., Jacksonville, N.C., for renewal of license of station WLAS, Docket No. 18814, File No. BR–2961.

1. On May 9, 1969, the Commission instituted a revocation proceeding against Seaboard Broadcasting Corp. (Seaboard), licensee of Station WLAS, Jacksonville, N.C. In its Order to Show Cause and Notice of Apparent Liability (FCC 69–507, released May 12, 1969), the Commission ordered a hearing to determine whether Seaboard had engaged in fraudulent billing and whether Seaboard had made misrepresentations to the Commission's staff during its investigation. By Memorandum Opinion and Order, FCC 70–272, 18 RR 2d 849, released March 27, 1970, the Commission consolidated the revocation proceeding for hearing with Seaboard's application for renewal of license of Station WLAS and the mutually exclusive application of SENCLand Broadcasting Systems, Inc. (SENCLand) for a construction permit for the same facilities. Presently before the Review Board is a petition to enlarge issues, filed August 31, 1970, by the Broadcast Bureau,[1] which requests the addition of the following issues: To determine whether Seaboard Broadcasting Corp. has made misrepresentations to the Commission in its renewal application filed September 2, 1969 (BR–2961) and/or in pleadings filed with the Commission in this proceeding, and

To determine, in view of the evidence adduced pursuant to the foregoing issue, whether Seaboard possesses the requisite qualifications to be a Commission licensee.

2. In support of its petition, the Broadcast Bureau alludes to a history of overcommercialization associated with Station WLAS. The Bureau argues that, in the WLAS renewal application, filed September 2, 1969, Seaboard informed the Commission that it had undertaken a policy of remedying its overcommercialization by "refusing to accept contracts for more than thirty (30) second spots * * * [i.e.,] using strictly thirty (30) second spots [and that] the result of strict enforcement of Seaboard's policy of limiting spots to thirty (30) seconds has come to fruition." (Emphasis added.)[2] The Bureau maintains that the foregoing language constituted an unequivocal representation that only 30-second spots would be broadcast by Seaboard over Station WLAS, and that the Review Board, in a recent Memorandum Opinion and Order (FCC 70R–228, released June 29, 1970, 24 FCC 2d 254, 19 RR 2d 480), relied upon Seaboard's representation in denying a request by SENCLand for an overcommercialization issue. Affidavits are submitted by the Bureau purporting to show that Seaboard is now and has been broadcasting 60-second spots, apparently in contravention of its representation to the Board that it would "refuse" to accept spots of more than 30-seconds duration. The Bureau characterizes Seabard's conduct as a misrepresentation to the Review Board and the Commission and, accordingly, requests the addition of misrepresentation and basic qualifications issues.

3. In opposition, Seaboard concedes that it does now and has always broadcast 60-second spots; it admits, however, its earlier representation that it would "refuse" to accept 60-second spots in an effort to eliminate overcommercialization. Seaboard claims that such representation was merely illustrative of its proposed method of reducing the overall amount of commercial matter to within the 18 minute per hour NAB guideline and was not an inexorable promise to discontinue the use of 60-second spots. Seaboard characterizes its conduct as an effectuation of the WLAS promise of "favoring" the use of 30-second spots to attain the reduced commercialization standard required. Seaboard also rejects the Bureau's suggestion that the Review Board relied on respondent's representations in denying the earlier petition to enlarge. To support its contentions, Seaboard submits the affidavits of Seaboard's vice president, several WLAS employees, and Seaboard's attorney.

4. In reply, the Bureau reiterates its contention as to the Board's reliance on Seaboard's representation, and also attaches affidavits showing a discrepancy between respondent's log notation and monitored evidence obtained by the Bureau concerning the duration of given spots, suggesting that certain announcements logged by respondent as 1 minute in length actually exceeded that time by substantial amounts.

5. Initially, the Review Board rejects as irrelevant Seaboard's argument that it has complied substantially with the NAB guidelines relating to commercial practices and, therefore, cannot be charged with misrepresenting its 30-second policy. It is the Review Board's opinion that Seaboard misconstrues the issue raised by the Bureau. Whether or not Seaboard complied with a recognized standard of commercial practice is not at issue; what is at issue is whether Seaboard, in its renewal application, pleadings and/or logs, made misrepresentations to the Commission. In addition, we cannot accept Seaboard's contentions that: (1) The Review Board neither relied on nor was influenced by such representations in denying SENCLand's petition to add an overcommercialization issue; (2) there was no misrepresentation because there was no "advantage" to Seaboard in making such a representation; and (3) regardless, this was not a "material" misrepresentation. In point of fact, the Board did rely on Seaboard's representations in reaching its conclusion that an overcommercialization issue against Seaboard was not warranted.[3] In any event, respondent's argument that its representation provided it with no "advantage" and lacked "materiality" was answered effectively by the United States Supreme Court in FCC v. WOKO, Inc., 329 U.S. 223, 227 (1946), where the Court held:

> It is said that in this case the Commission failed to find that the concealment was of material facts or had influenced the Commission in making any decision * * *. We think this is beside the point. The fact of concealment may be more significant than the facts concealed.
>
> The willingness to deceive a regulatory body may be disclosed by immaterial and useless deceptions as well as by material and persuasive ones. We do not think it is an answer to say that the deception was unnecessary and served no purpose.

Thus, no showing of materiality, advantage, or that the Commission was, in fact,

[3] Commissioner Bartley absent; Commissioner Johnson concurring in the result.

[1] Also before the Review Board for consideration are: (a) Opposition, filed Sept. 23, 1970, by Seaboard, and (b) reply, filed Sept. 30, 1970, by the Broadcast Bureau. In view of the fact that the information herein first became available on Aug. 26, 1970, the Bureau submits that the instant petition is timely filed. The Review Board is of the opinion that, pursuant to § 1.229(b) of the Commission's rules, good cause has been shown for the delay. The Board also notes that the Bureau's petition is not objected to by Seaboard on the grounds of untimeliness.

[2] Attached to the Bureau's petition are copies of relevant portions of Seaboard's renewal application and of a Nov. 30, 1960, letter from Seaboard to the Commission pertaining to WLAS's commercial practices.

[3] In its aforementioned Memorandum Opinion and Order, supra, the Board stated: "* * * consideration is given to the licensee's explanation for its past commercial practices and to its representations about present and proposed policies. More specifically, we note that Seaboard, in its renewal application (Exhibit No. 11) and in its opposition pleading here, has explained that the competitive situation in Jacksonville and the need to provide an advertising outlet for local merchants resulted in the licensee's exceeding its own commercial policies during its last license period. Seaboard also points out the efforts it has undertaken to remedy the situation * * *." FCC 70R–228, supra at para. 5, 24 FCC 2d at 257, 19 RR 2d at 485.

misled, is necessary for a finding of misrepresentation.

6. With respect to the merits of the Bureau's petition, the Review Board is of the opinion that a sufficient question has been raised to warrant an inquiry into the nature and intent of the representations made by Seaboard in its renewal application, pleadings, and logs. In this regard, it is well established that misrepresentations made by a licensee and statements calculated to deceive the Commission may form sufficient grounds for denial of an application for renewal of license.[4] The pleadings before the Board raise a serious question as to whether Seaboard has made misrepresentations to the Commission; therefore, an appropriate issue will be added. It may be explored at the hearing whether the language of Seaboard's representations, i.e., "refuse", "strictly", or "limit", is to construe absolutely or whether Seaboard reasonably intended thereby merely to "favor" 30 second spots. Concomitantly, it may be determined whether Seaboard has complied with its proffered representation. Furthermore, a question has been raised as to whether the Commission reasonably may rely on Seaboard's representations concerning the duration of its commercial announcements—be they 30 or 60 second spots. As previously indicated, there is a discrepancy between the Bureau's documentation of the duration of specified announcements and the duration of such announcements as logged by Seaboard, and there is no way of ascertaining on the basis of the pleadings before us which representation is accurate. Consequently, the logging discrepancies should be considered at the hearing in conjunction with the misrepresentation issue regarding Seaboard's renewal application.[5]

7. *Accordingly, it is ordered,* That the Petition to Enlarge Issues, filed August 31, 1970, by the Broadcast Bureau, is granted to the extent indicated below and is denied in all other respects; and

8. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether Seaboard Broadcasting Corp. has made misrepresentations to the Commission in its renewal application filed September 2, 1969 (BR–2961) and/or in pleadings and logs filed with the Commission in this proceeding, and whether respondent's representations as to the duration of its spot announcements are accurate and to be relied upon; and

(b) To determine, in light of the evidence obtained pursuant to the foregoing issue, whether a grant of the application of Seaboard Broadcasting Corp. for renewal of license would serve the public interest, convenience and necessity; and

(c) To determine, in light of the evidence obtained pursuant to the foregoing issues, whether Seaboard Broadcasting Corp. possesses the requisite qualifications to be a Commission licensee.

9. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be upon the Broadcast Bureau and the burden of proof shall be upon Seaboard Broadcasting Corp.

Adopted: November 25, 1970.

Released: December 1, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[6]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-16294; Filed, Dec. 3, 1970; 8:49 a.m.]

[4] Palmetto Broadcasting Co., 33 FCC 250, 23 RR 483 (1962), reconsideration denied 34 FCC 101, 23 RR 486 (1963).

[5] The important role of program logs as an integral part of the renewal application and the Commission's renewal process is well established. See Prattville Broadcasting Co., 4 FCC 2d 555, 560, 8 RR 2d 120, reconsideration denied 5 FCC 2d 601, 8 RR 2d 1096 (1966). In addition, the Board is mindful of the Commission's rule and policy concerning logging practices which require the duration of recorded announcements to be logged with precision and the duration of live announcements to be logged as a reasonable approximation of the time actually consumed. See § 73.115, Note 5, of the Commission's rules; Report and Order by the Commission re Programing Logging Rules, 1 FCC 2d 449, 5 RR 2d 1784 (1965); cf. Continental Broadcasting Inc., 15 FCC 2d 120, 14 RR 2d 813, reconsideration denied 17 FCC 2d 485, 16 RR 2d 30 (1969).

[6] Review Board Members Berkemeyer and Kessler absent.

FEDERAL POWER COMMISSION

[Docket No. RI71-456 etc.]

CITIES SERVICE OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 27, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 18, 1971.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-456..	Cities Service Oil Co.	201	3	Northern Natural Gas Co. (Hugoton Field, Finney County, Kans.).	$248	10-29-70	[4] 10-1-70	[4] 10-2-70	[12] 12.0	[8] 10.0	
RI71-457..	Marathon Oil Co.	45	4	do.	(23)	11-2-70	[4] 10-1-70	[4] 10-2-70	[15] 13.0	[8] 10.0	RI66-304.
RI71-458..	W. L. Hartman	2	9	do.	(1,881)	11-2-70	[4] 10-1-70	[4] 10-2-70	[16] 17.0	[8] 10.0	RI61-192.
RI71-459..	John A. Hairford	3	1	Kansas-Nebraska Natural Gas Co., Inc. (Hugoton Field, Finney County, Kans.).	183	11-3-70	[4] 11-3-70	[4] 11-4-70	[17] 11.0	[8] 10.0	
		5	2	Cities Service Gas Co. (Hugoton Field, Finney County, Kans.).	140	11-3-70	[4] 11-3-70	[4] 11-4-70	[8] [9] 13.0	[8] 10.0	RI69-188.
RI71-460..	Apache Corp.	6	2	do.	646	11-12-70	[4] 11-12-70	[4] 11-13-70	[10] 13.0	[8] 10.0	RI69-168.

*Pressure base is 14.65.
[1] Subject to downward B.t.u. adjustment from a base of 950 B.t.u.'s per cubic foot.
[2] Net rate adjustment for B.t.u. content of 712 shown in filing is 8.994 cents.
[3] Applicant proposes minimum rate prescribed in Opinion No. 586 as a floor below which downward B.t.u. adjustment would not apply.
[4] Pursuant to Opinion No. 586.
[5] Net rate adjusted for B.t.u. content of 740 shown in filing is 10.126 cents.
[6] Net rates adjusted for B.t.u. content as shown in filing are: Becker Well (703 B.t.u.)—12.58 cents; Garden City Well (775 B.t.u.)—13.868 cents; Finnup C Well (843 B.t.u.)—15.085 cents.
[7] Net rate adjusted for B.t.u. content of 776 shown in filing is 8.935 cents. Filing erroneously shows 12 cents base rate as in effect.
[8] Subject to downward B.t.u. adjustment from a base of 900 B.t.u.'s per cubic foot.
[9] Net rate adjusted for B.t.u. content of 668 shown in filing is 9.049 cents.
[10] Net rate adjusted for B.t.u. content of 647 shown in filing is 9.349 cents.
[11] The presently effective rates for some of these sales exceed the applicable area just and reasonable rates, inclusive of contractual downward B.t.u. adjustment, determined in Opinion No. 586 and are therefore subject to reduction as of Oct. 1, 1970, the effective date of that opinion.

The producers involved here have filed rate changes to the applicable minimum rate ceiling prescribed in Opinion No. 586 for such sales. These sales all involve low B.t.u. gas. In their rate change filings the producers have not applied their contractual downward B.t.u. adjustment provisions to the minimum rate. In these circumstances there is a question presented as to whether the proposed rates exceed the minimum rate ceiling in Opinion No. 586. Pending resolution of this question we shall suspend these proposed rates for 1 day and thereafter shall permit the producers to collect the proposed rates, subject to refund, upon compliance with the provisions of ordering paragraph (B) of this order. In accordance with Opinion No. 586, as amended, the suspension period will be 1 day from October 1, 1970, where the filing was made on or before November 2, 1970, and 1 day from the date of filing if the filing was made subsequent to November 2, 1970.

[F.R. Doc. 70-16214; Filed, Dec. 3, 1970; 8:45 a.m.]

[Docket No. RI71-426 etc.]

CLARK OIL PRODUCING CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 25, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 12, 1971.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf Rate in effect	Cents per Mcf Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-426..	Clark Oil Producing Co.	[1] [2] 2	2	Mountain Fuel Supply Co. (Ace Unit Area, Moffat Co., Colorado).	$1,196	10-23-70	11-23-70	11-29-70	13.0	14.0	-
RI71-427..	Pennzoil Producing Co.	[3] 276	[5] 2	United Gas Pipe Line Co. (Agua Dulce Field, Nueces County, Tex. R.R. District No. 4).	39,000	11-3-70	[9] 11-3-70	11-4-70	[6] [10] 15.0	[4] [10] 16.0	RI70-282, RI70-1490.

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Successor to Clark Oil & Refining Corp. FPC GRS No. 2.
[2] Contract dated after date of issuance of general policy statement No. 61-1.
[3] Has superseded Pennzoil's FPC gas rate schedules 1-27 and 29-40.
[4] Pursuant to Opinion No. 567.
[5] Includes supporting documents required by Opinion No. 567.
[6] Proposed rate of 18.5 cents suspended in Docket No. RI71-239 until Mar. 1, 1971.
[7] Applies only to gas well gas sales from the Elliff No. A-2 Well, now reservoir discovered May 21, 1970.
[8] Not used.
[9] Date of filing.
[10] The pressure base is 14.65 p.s.i.a.

Clark Oil Producing Co.'s (Clark) contract is dated after the date of issuance of the general policy statement No. 61–1; and the proposed rate does not exceed the initial service ceiling rate for Colorado. Accordingly, Clark's proposed rate is suspended for 1 day.

Pennzoil Producing Co.'s (Pennzoil) proposed increase involves gas well gas produced from newly discovered reservoirs in Texas RR. District No. 4, and qualifies for the proposed rate of 16 cents pursuant to Opinion No. 567, but since affiliation exists between buyer and seller the proposed increase is suspended for 1 day from the date of filing.

[F.R. Doc. 70–16163; Filed, Dec. 3, 1970; 8:45 a.m.]

[Docket No. RI71–418 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

NOVEMBER 25, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 25, 1971.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71–418	Sun Oil Co	169	4	Cascade Natural Gas Corp. (Divide Creek Field, Mesa and Garfield Counties, Colo.).	$48,000	11–5–70	1–1–71	6–1–71	[12] 15.0	[12] 16.0	
		426	2	do	840	11–5–70	1–1–71	6–1–71	[12] 15.0	[12] 16.0	
RI71–419	Humble Oil & Refining Co.	212	15	El Paso Natural Gas Co. (Aneth Area, San Juan County, Utah).	18,925	11–6–70	12–7–70	5–7–71	[12] 19.50	[4] [12] 22.22	RI70–870.
RI71–391	Marathon Oil Co	91	[2] 1 to 3	Cascade Natural Gas Corp. (Divide Creek Area, Mesa and Garfield Counties, Colo.).	900	11–5–70	1–1–71	6–1–71	[12] 15.0	[12] 16.0	
RI68–219 RI68–641	Prenalta Corp	1	8	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	1,583	11–2–70	12–3–70	[13] Accepted	[4] 18.1800	[4] 18.4536	
RI68–336	do	2	3	do	123	11–2–70	12–3–70	[13] Accepted	15.5	15.7325	RI68–336.
RI68–618	do	3	[3] 11	do	147	11–2–70	12–3–70	[13] Accepted	[5] [6] 18.1760	[5] 18.4493	
RI71–420	do			do	0	11–2–70	12–3–70	5–3–71	[7] [12] 15.0	[5] [12] 18.4486	
RI69–26	do	4	[3] 5	do	491	11–2–70	12–3–70	[13] Accepted	[12] 18.2	[12] 18.4730	RI69–26.
RI71–421	Cabot Corp	96	5	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex. (RR. District 8-Permian Basin).	660	11–2–70	12–3–70	5–3–71	16.0433	17.5033	RI69–206.
RI71–422	Kirby Petroleum Co	33	6	Mountain Fuel Supply Co. (West Side Canal Area, Carbon County, Wyo.).	1,800	11–6–70	12–7–70	5–7–71	[12] 15.075	[12] 16.075	RI70–1974.
RI71–423	Arkla Exploration Co.	21	1	Arkansas Louisiana Gas Co. (Monroe Field, Union Parish, North Louisiana).	2,516	10–23–70	1–1–71	6–1–71	[12] [14] 16.3333	[12] [14] 17.3333	
RI71–424	Placid Oil Co	25	1	Southern Natural Gas Co. (Cranfield Field, Adams and Franklin Counties, Miss.).	1,050	10–29–70	12–1–70	5–1–71	[12] 22.87263	[12] [15] 27.03364	
RI71–425	Shell Oil Co	10	[11] [17] 34	Texas Eastern Transmission Corp. (Provident City et al. Fields, La Vaca and Colorado Counties Tex., RR. Districts Nos. 2 and 3).	0	10–29–70	1–1–71	[13] Accepted	[11] [12] [16] 16.6725	0	RI70–426.
	do		35	do	1,650,000	10–29–70	1–1–71	6–1–71	[11] [12] [16] 16.6725	23.0	RI70–426.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Increase from fractured rate to contract rate.
[2] Corrects notice of change filed Oct. 21, 1970 (Supplement No. 3).
[3] Corrected by filing of Nov. 12, 1970.
[4] Includes 2.1860 cents per Mcf upward B.t.u. adjustment.
[5] Rate previously reported as 18.25 cents per Mcf, inclusive of 2.25 cents per Mcf upward B.t.u. adjustment and 18.13 cents per Mcf, inclusive of 2.13 cents per Mcf upward B.t.u. adjustment for acreage added by Supplement No. 5 which are ESR in Docket Nos. RI68–219 and RI68–641, respectively.
[6] Previously reported as 18.15 cents per Mcf inclusive of 2.15 cents per Mcf upward B.t.u. adjustment which is ESR in Docket No. RI68–618.
[7] Initial rate—subject to upward B.t.u. adjustment not to exceed 2.2 cents per Mcf.
[8] Includes 2.1760 cents per Mcf upward B.t.u. adjustment.
[9] Increase to contract rate.
[10] Pertains to acreage added by Supplement No. 8.
[11] Includes 2.2 cents per Mcf upward B.t.u. adjustment.
[12] Includes 1.3333-cent tax reimbursement.
[13] Two-step periodic increase.
[14] Also collecting 10.5735 cents for gas from new reservoirs, submitted pursuant to Opinion No. 567.
[15] Contract dated Oct. 27, 1970, replacing the original contract which expires by its own terms on Jan. 1, 1971.
[16] Not used.
[17] Provides, among other things, for the rate proposed herein.
[18] Pressure base is 15.025 p.s.i.a.
[19] 16.6725 cents is rate for all gas except from newly discovered reservoirs.
[20] 16.5735 cents is price for gas from newly discovered reservoirs in District 3.
[21] Accepted as the date of filing subject to the existing rate proceedings in Dockets Nos. RI68–219; RI68–641; RI68–332; RI68–618, and RI69–23.
[22] Accepted as of Jan. 1, 1971, as a contract amendment only subject to the conditions prescribed elsewhere in this order.

The substitute increase filed by Marathon Oil Co. corrects a previously filed increase which was suspended for 5 months from November 21, 1970 in Docket No. RI71-391. Since the proposed rate is not contractually due until January 1, 1971, the suspension period in Docket No. RI71-391 for the proposed rate, as corrected, shall expire 5 months from January 1, 1971.

With one exception, the proposed increases filed by Prenalta Corp. reflect only reimbursement of the Wyoming severance tax for both past and future production and are accepted for filing effective as of November 2, 1970, the date of filing, subject to the existing rate proceedings in Dockets Nos. RI68-219, RI68-641, RI68-336, RI68-618, and RI69-26. The increase by Prenalta from 15 cents to 18.44 cents per Mcf under its FPC Gas Rate Schedule No. 3 reflects not only a tax reimbursement increase for both past and future production but also an increase to the contract rate for future production. It is therefore suspended for 5 months. After tax reimbursement applicable to past production has been recovered, Prenalta will be required to reduce the proposed rates so as to provide for tax reimbursement for future production only.

Shell Oil Co. filed a new contract, designated herein as Supplement No. 34 to its FPC Gas Rate Schedule No. 10, replacing the original contract under the subject rate schedule which expires on January 1, 1971. The new contract provides, inter alia, for any higher rate prescribed by The Commission for the area involved and for specific daily contract quantities under the minimum take or pay provision. Since the take or pay provision in the new contract may not conform to the minimum take provisions proposed in Docket No. R-400, the acceptance of the new contract as a change in rate schedule, effective January 1, 1971, is subject to the outcome of such rulemaking proceeding. The provisions relating to the area rate in the new contract do not conform with § 154.93(b-1) of the Commission's regulations. Accordingly, the acceptance of this contract is also subject to the condition that this provision be interpreted consistent with the provisions of § 154.93(b-1) of the Commission's regulations and will only apply upon Commission's approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, section 2.56).

[F.R. Doc. 70-16164; Filed, Dec. 3, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Barnett Banks of Florida, Inc., Jacksonville, Fla., for approval of acquisition of 80 percent or more of the voting shares of The Brickell Bank, Miami, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Barnett Banks of Florida, Inc., Jacksonville, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The Brickell Bank, Miami, Fla. (Brickell Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking of the State of Florida, and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on October 22, 1970 (35 F.R. 16191), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources of the Applicant and the banks concerned, and the convenience and needs of the communities to be served and finds that:

Applicant presently controls 23 banks which hold deposits of $622 million, representing 5.1 percent of total deposits held by Florida's commercial banks, and is the State's third largest banking organization. (All banking data are as of June 30, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board to date, except Applicant's proposed acquisition of Bank of Osceola, Kissimmee, Fla. (56 Federal Reserve Bulletin 361), which has been abandoned.) Applicant's acquisition of Brickell Bank ($4 million deposits) would have no significant effect on concentration of banking resources.

Brickell Bank, located in the city of Miami, Dade County, Fla., serves the coastal area around Brickell Avenue, and the adjacent residential area. Although Brickell Bank is the only bank located in the area it serves, there are eight larger banks competing therein, which control over 99 percent of the area's total deposits. Brickell Bank is the 65th largest of the 69 banks operating in the county, 22 of which are situated within 5 miles of Brickell Bank. Applicant's closest subsidiary bank to Brickell Bank is located 167 miles northwest of Miami. None of Applicant's present subsidiaries competes with Brickell Bank because of the distances involved and the presence of other banks in the intervening areas. Consummation of the proposed acquisition would eliminate no existing competition, and it does not appear that it would foreclose potential competition, or have adverse effects on any of the competing banks, all of which are many times larger than Brickell Bank.

Based on the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area, and would have a procompetitive effect in the Miami area. The banking factors, as applied to the record before the Board, and as they pertain to Applicant, its subsidiaries and Brickell Bank are regarded as consistent with approval of the application. Although it appears that the banking needs of the area served by Brickell Bank are being adequately served, Applicant proposes to institute improved and more aggressive banking policies at Brickell Bank. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] November 30, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-16306; Filed, Dec. 3, 1970; 8:50 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

HELEN MINING CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been received as follows:

(1) ICP Docket No. 10002, the Helen Mining Co., Homer City Mine, USBM ID No. 36 00926 0, Homer City, Indiana County, Pa., Section ID No. 001 (2 Rt. Butt—Left Side), Section ID No. 002 (2 Rt. Butt—Rt. Side), Section ID No. 003 (South Mains), Section ID No. 004 (South Mains—Second Unit), Section ID No. 005 (Crossover Mains), Section ID No. 006 (Crossover Mains—Second Unit).

(2) ICP Docket No. 10287, Johns Creek Elkhorn Coal Corp., Mine No. 1, USBM ID No. 15 02102 0, Kimper, Pike County, Ky., Section ID No. 001 (1st Left off 2 Main).

(3) ICP Docket No. 10288, Johns Creek Elkhorn Coal Corp., Mine No. 2 USBM ID No. 15 02101 0, Kimper, Pike County,

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Mitchell.

Ky., Section ID No. 001 (1st Left off 2d Right).

(4) ICP Docket No. 10001, the Florence Mining Co., Florence No. 1 Mine—Robinson Portal, USBM ID No. 36 00925 0, Robinson, Indiana County, Pa., Section ID No. 001 (Unit 1), Section ID No. 002 (Unit 2), Section ID No. 003 (Unit 3), Section ID No. 004 (Unit 4), Section ID No. 005 (Unit 5), Section ID No. 006 (Unit 6), Section ID No. 007 (Unit 7).

(5) ICP Docket No. 10439, the Florence Mining Co., Florence No. 2 Mine, USBM ID No. 36 02448 0, Huff, Indiana County, Pa., Section ID No. 001 (Unit 1).

(6) ICP Docket No. 10438, the Florence Mining Co., Dias Mine, USBM ID No. 36 00914 0, Armagh, Indiana County, Pa., Section ID No. 001 (West Mains), Section ID No. 002 (West Mains—Second Unit).

(7) ICP Docket No. 11638, the Florence Mining Co., Florence No. 1—Blacklick Portal, USBM ID No. 001 (Second Southeast Left Side), Section ID No. 002 (Second Southeast Right Side), Section ID No. 003 (Southwest Mains).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 30, 1970.

[F.R. Doc. 70–16274; Filed, Dec. 3, 1970; 8:47 a.m.]

PITTSBURGH COAL CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg/m³) have been received as follows:

(1) ICP Docket No. 10254, Pittsburgh Coal Co., Montour No. 4 Mine, USBM ID No. 36 00966 0, Lawrence, Washington County, Pa., Section ID No. 008 (8 Face 10 Mains).

(2) ICP Docket No. 10035, Westmoreland Coal Co., Hampton No. 3 Mine, USBM ID No. 46 01283 0, Clothier, Boone County, W. Va., Section ID No. 001 (2 North), Section ID No. 002 (6 Right off 4 Left).

(3) ICP Docket No. 10110, Itmann Coal Co., Itmann No. 1 Mine, USBM ID No. 46 01540 0, Itmann, Wyoming County, W. Va., Section ID No. 001 (6 Mains), Section ID No. 002 (Guyan 4 Panel), Section ID No. 003 (Guyan Left), Section ID No. 004 (Guyan 5 Panel), Section ID No. 005 (Guyan 1 Panel), Section ID No. 006 (A–1), Section ID No. 007 (D-Airways), Section ID No. 008 (Straight Mains), Section ID No. 009 (Micajah 1 Panel).

(4) ICP Docket No. 10240, Mountaineer Coal Co., Loveridge Mine, USBM ID No. 46 01433 0, Fairmont, Marion County, W. Va., Section ID No. 005 (No. 2 North).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742 et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

DECEMBER 1, 1970.

[F.R. Doc. 70–16273; Filed, Dec. 3, 1970; 8:47 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

COMMONWEALTH OF PUERTO RICO

Notice of Major Disaster

Notice of Major Disaster for the Commonwealth of Puerto Rico, dated October 19, 1970, and published October 23, 1970 (35 F.R. 16556) and amended October 26, 1970, is hereby further amended to include the following municipalities among those municipalities determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 12, 1970:

The Municipalities of:

Culebra. Rio Grande.

Dated: November 30, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70–16277; Filed, Dec. 3, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.1, Rev. 2]

DEPUTY ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation on Financial Assistance

Delegation of Authority No. 4.1, Revision 1 (32 F.R. 938), as amended (33 F.R. 8624, 33 F.R. 9317, 33 F.R. 12765, and 34 F.R. 6351), is hereby revised to read as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759), there is hereby redelegated to the Deputy Associate Administrator for Financial Assistance the following authority:

A. To approve or decline business, trade adjustment, coal mine health and safety, disaster, displaced business, development company and economic opportunity loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans, but is not authorized to declare the nonapplicability of eligibility limitations to a community emergency as set forth in section 120.2(e) of SBA Loan Policy Regulations.

B. To cancel, reinstate, modify, and amend authorizations for loans.

C. To determine eligibility of loan and lease guarantee applicants.

D. To authorize acceptance of disaster loan applications after expiration of the original disaster period.

E. To extend the original disaster period resulting from a disaster declaration.

F. To take all necessary actions in connection with the servicing, administration, collection, and liquidation of all loans with the exception of those classified as in litigation, and other obligations and acquired property, and to accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon, but is not authorized:

1. To sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

2. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

G. To approve or decline any application to the Small Business Administration for a guarantee of the payment of rent under a lease.

H. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

I. To reinsure or decline to reinsure any application for the guarantee of the payment of rent under a lease.

J. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under insurance policies upon default of the lessee.

K. To approve the investment of moneys in the Lease Guarantee revolving fund not needed for the payment of current operating expenses or for the payment of claims arising under the Lease Guarantee program, in bonds or other obligations guaranteed as to principal and interest by the United States.

L. To make size determinations for the purposes of the loan and lease guarantee programs.

II. The authority delegated herein may be redelegated with the exception of that contained in item I.E.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Deputy Associate Administrator for Financial Assistance.

IV. All authority previously delegated by the Associate Administrator for Financial Assistance to the Deputy Associate Administrator for Financial Assistance is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Effective date: October 29, 1970.

JACK EACHON, Jr.,
Associate Administrator for Financial Assistance.

[F.R. Doc. 70-16283; Filed, Dec. 3, 1970; 8:48 a.m.]

GOLD COAST CAPITAL CORP.

Approval of Application for Transfer of Control of a Licensed Small Business Investment Company

On November 6, 1970, a notice of application for transfer of control was published in the FEDERAL REGISTER (35 F.R. 17156) stating that an application had been filed with the Small Business Administration pursuant to § 107.701 of the SBA Rules and Regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107), for transfer of control of Gold Coast Capital Corp. (GCCC), License No. 05/05-0010, 1451 North Bayshore Drive, Miami, FL 33132, a Federal licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Interested persons were given until the close of business November 16, 1970, to submit their written comments to SBA. No comments were received.

SBA, having considered the application and all other pertinent information and facts with regard thereto, hereby approves the application for transfer of control to Messrs. Peter Schenck and William I. Gold.

A. H. SINGER,
Associate Administrator for Investment.

NOVEMBER 19, 1970.

[F.R. Doc. 70-16284; Filed, Dec. 3, 1970; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4945]

EASTERN UTILITIES ASSOCIATES ET AL.

Notice of Proposed Issue and Sale of Notes by Holding Company and Subsidiary Companies to Banks and Open Account Advances by Holding Company to Subsidiary Companies

NOVEMBER 27, 1970.

In the matter of Eastern Utilities Associates, Post Office Box 2333, Boston, MA 02107; Blackstone Valley Electric Co., Post Office Box 1111, Lincoln, RI 02865; Brockton Edison Co., 36 Main Street, Brockton, MA 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, MA 02772; Montaup Electric Co., Post Office Box 391, Fall River, MA 02772; (70-4945).

Notice is hereby given that Eastern Utilities Associates (EUA), a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Co. (Blackstone) Brockton Edison Co. (Brockton), Fall River Electric Light Co. (Fall River), and Montaup Electric Co. (Montaup) have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(1), 7, 12(b), and 12(f) of the Act and Rules 45(a) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA, Blackstone, Brockton, Fall River, and Montaup propose to issue and sell short-term, unsecured, promissory notes to banks, and, in the cases of Blackstone, Brockton, and Fall River, to also receive open-account advances from EUA, from time to time during the period beginning December 18, 1970, and ending July 1, 1971, in the maximum aggregate amounts to be outstanding at any one time, as shown below:

	Thousands of dollars				
	EUA	Blackstone	Brockton	Fall River	Montaup
The Chase Manhattan Bank (N.A.), New York, N.Y.		$700	$1,000	$1,000	$1,000
Industrial National Bank of Rhode Island, Providence, R.I.		2,000			
Rhode Island Hospital Trust National Bank, Providence, R.I.		2,000			
The First National Bank of Boston, Boston, Mass.	$17,000		1,300	3,000	8,000
State Street Bank and Trust Co., Boston, Mass.			1,400		
Plymouth Home National Bank, Brockton, Mass.			400		
First County National Bank, Brockton, Mass.			300		
B.M.C. Durfee Trust Co., Fall River, Mass.				650	
Fall River Trust Co., Fall River, Mass.				600	
Fall River National Bank, Fall River, Mass.				200	
Total from banks	17,000	4,700	4,400	6,400	9,000
EUA		10,400	12,600	1,600	
Maximum amount of aggregate short-term borrowings from banks and advances from EUA to be outstanding at any one time	17,000	11,100	13,600	7,000	9,000

The notes to banks will be dated as of the date of issuance, will bear interest at a rate not to exceed the prime rate on the date of issuance (presently 7½ percent per annum) and will be prepayable in whole or in part without penalty. Notes issued after December 18, 1970, and prior to April 1, 1971, will mature on April 1, 1971, and all notes issued on and after April 1, 1971, and prior to July 1, 1971, will mature on July 1, 1971. The advances by EUA to Blackstone and Brockton will be subordinated to the rights of the preferred stockholders of Blackstone and Brockton, respectively, to receive dividends and in liquidation if, and so long as, (a) preferred stock dividends are in arrears (or in the event of liquidation, the liquidation rights of preferred stockholders have not been satisfied) and (b) the sum of the advances from EUA, the notes payable to banks and all other securities representing unsecured debt, maturing in less than 10 years, exceeds 10 percent of the company's secured debt, capital stocks, premium, and surplus. The advances will bear interest payable on April 1 and July 1, 1971, at the prime rate in effect at the First National Bank of Boston on those respective dates or the rate at which EUA is then borrowing from said bank, whichever is lower, except that to the extent advances are made hereunder from the proceeds of issuance by EUA of 5-year unsecured debt securities, such advances shall bear interest payable at the rate incurred by EUA.

Blackstone expects to have outstanding, at December 18, 1970, an estimated $8,800,000 principal amount of short-term loans, including a $4,800,000 loan from EUA; Brockton, Fall River, and Montaup expect to have outstanding principal amounts of short-term notes of $11,800,000, including $7,500,000 loan from EUA, $6,900,000, including $800,000 loan from EUA, and $8,500,000, respectively. The proceeds from the proposed notes and advances will be used in part by the respective companies to meet cash requirements for construction and to pay short-term loans at or prior to maturity.

Blackstone, Brockton, or Fall River may prepay its notes to banks, in whole or in part, by the use of an advance from EUA, or may repay an advance from EUA with the proceeds of notes issued to banks. Any advance from EUA for such purpose will bear interest, for the unexpired term of the prepaid note, at the lower of the prime rate or the rate borne by the prepaid note. If the interest rate on a note issued to a bank for the purpose of obtaining funds to repay an advance from EUA shall exceed the rate

on the advance being repaid, EUA shall reimburse or credit Blackstone, Brockton, or Fall River, as the case may be, for the added interest required for the term of the note so issued.

In the event of any permanent financing by any of the borrowing companies (with the exception of EUA's proposed 5-year unsecured debt securities), the net cash proceeds therefrom will be applied to the payment of its short-term note indebtedness or advances from EUA then outstanding, and the maximum amount of short-term note indebtedness and advances to be outstanding at any one time, as proposed herein, will be reduced by the amount of the proceeds of such permanent financing.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment.

Notice is further given that any interested person may, not later than December 15, 1970, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants-declarants at the above-noted addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-16264; Filed, Dec. 3, 1970; 8:46 a.m.]

[812-2852]

E. F. HUTTON TAX-EXEMPT FUND (CALIFORNIA SERIES 1, NEW YORK SERIES 1 AND SUBSEQUENT SERIES)

Notice of Filing of Application for Order Granting Confidential Treatment

NOVEMBER 25, 1970.

Notice is hereby given that E. F. Hutton Tax-Exempt Fund (California Series 1, New York Series 1 and subsequent Series) (Applicant), c/o E. F. Hutton & Co., Inc., One Chase Manhattan Plaza, New York, NY 10005, a unit investment trust registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 45(a) of the Act for an order of the Commission granting confidential treatment to the statements of earnings of E. F. Hutton & Co., Inc., the sponsor (Sponsor) of Applicant, which Applicant has filed or which it from time to time may be required to file with the Commission. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are set forth below.

Applicant is a unit investment trust which will be organized under the laws of the State of New York. It is intended that the United States Trust Company of New York will act as Trustee of Applicant (Trustee) under separate but similar Trust Indentures and Agreements to be entered into between the Sponsor and the Trustee with respect to each Series.

On October 2, 1970, Applicant filed registration statements on Form S-6 under the Securities Act of 1933 for a maximum of 7,500 units of California Series 1 and 7,500 units of New York Series 1 of undivided interest to be offered to investors at a public offering price set forth in the prospectuses included in said Securities Act registration statements. These registration statements have not yet become effective. Applicant also filed on October 2, 1970, a notification of registration on Form N-8A for each of the two Series, a registration statement on Form N-8B-2 under the Investment Company Act for each of the two Series, and an Application for an order under section 6(c) of said Act exempting Applicant from section 14(a) thereof. On the same date, Applicant also filed with the Commission statements of financial condition of the sponsor, audited as of May 28, 1970, and unaudited as of July 31, 1970 (Exhibit 4.1 to the respective Securities Act registration statements and Exhibit E to the respective Form N-8B-2).

Applicant has filed simultaneously with the application statements of earnings of the sponsor for the fiscal year ended December 31, 1969, for the 5 months ended May 29, 1970, and for the 7 months ended July 31, 1970 with the Commission, and Applicant requests confidential treatment only with respect to these statements of earnings and subsequent statements of earnings of the sponsor which Applicant may be required to file with the Commission from time to time.

Section 45(a) of the Act provides in pertinent part that information filed with the Commission "shall be made available to the public, unless and except insofar as the Commission * * * by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors."

Applicant submits that public disclosure of the above financial information is neither necessary nor appropriate in the public interest or for the protection of investors for the following reasons.

All stockholders of the sponsor are officers, directors or, in one case, a salaried consultant of the sponsor. The investors in Applicant are not being offered an opportunity to acquire any interest whatsoever in the sponsor. Aside from its obligations under the Trust Indenture and Agreement periodically to evaluate the portfolio and to direct the disposition of obligations which are, or are likely to be, defaulted upon by the issuer thereof, which obligations may be performed by the Trustee or a successor sponsor if not performed by the sponsor, the sponsor will function solely as the underwriter of the Applicant. Applicant asserts that there is no legitimate interest on the part of investors in the public disclosure of the statement of earnings of an underwriter from whom securities have been purchased. This is particularly evident in the present context where the sponsor, throughout its 66-year history as an underwriter, broker, and investment banker, has never publicly released such information.

The application further states that to the extent that the sponsor's solvency may conceivably be thought relevant to its proposed maintenance of a market in the units of Applicant, the sponsor's statements of financial condition which have been filed with the Commission and which are readily available to the public, contain fully adequate information in this regard. Moreover, even if the operations of the sponsor were to render it unable to maintain a market in the units, investors are adequately protected by the Trustee's obligation to redeem such units at any time at the redemption price.

In addition to the financial condition of the sponsor being irrelevant to the successful operation of Applicant, the value of the items comprising the portfolio itself is wholly unrelated to the financial operations of the sponsor. Investors in Applicant will receive a fractional undivided interest in the portfolio of tax-free municipal bonds comprising Applicant. The obligations evidenced by the underlying bonds are not guaranteed

in any way by the sponsor. The soundness of the investors' interest in Applicant is solely a function of the fiscal condition of the issuing municipalities. In short, Applicant represents that the financial operation of the sponsor will in no way enhance or diminish the prospects for the orderly payment of the underlying bonds.

Notice is further given that any interested person may, not later than December 17, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–16265; Filed, Dec. 3, 1970; 8:46 a.m.]

[812–2818]

HAYWOOD MANAGEMENT CORP. AND HAYDEN, STONE INC.

Notice of Application for Exemption

NOVEMBER 25, 1970.

Notice is hereby given that Hayden, Stone Inc. (Hayden, Stone) and Haywood Management Corp. (Haywood), 485 Madison Avenue, New York, NY 10022, which is the investment advisor to Tudor Hedge Fund (Hedge), Tudor Capital Fund (Capital) and American DualVest Fund (American) (collectively Funds and with Haywood and Hayden, Stone, as Applicants) have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Haywood and Hayden, Stone from the provisions of section 15(a) of the Act to allow Haywood to continue to serve as investment advisor to the Funds despite the termination upon assignment of their investment advisory agreements which occurred on September 11, 1970, as a result of the transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that prior to September 11, 1970, Hayden, Stone, a broker-dealer registered pursuant to section 15 of the Securities Exchange Act of 1934, owned all the voting stock and 69 percent of the total equity of Haywood. On September 11, 1970, the name of Hayden, Stone was changed to HS Equities, Inc. (Equities), and that the assets of Hayden, Stone which were then undisposed of were transferred to Equities. Applicants state that one of the assets transferred to Equities was all of Hayden, Stone's equity interest in Haywood. The sole business of Equities is to liquidate its assets over a period of time in an orderly manner. Applicants also state that the changes in name and purpose were accompanied by a change in ownership of Equities. This change in ownership occurred on September 11, 1970. The subordinated lenders of Hayden, Stone have become the equity owners of Equities by accepting one share of $6 Senior Preferred Stock for each $100 aggregate principal amount of indebtedness of Hayden, Stone which they held. Applicants state that these subordinated lenders number 108, and include the New York Stock Exchange, and that the lenders, pursuant to the exchange offer, as a group now hold more than 99 percent of the outstanding voting stock of Equities. The prior holders of voting common stock of Hayden, Stone have had their voting power diminish from 100 percent to less than 1 percent and the former subordinated lenders of Hayden, Stone hold the controlling voting securities of Equities.

Section 15 of the Act provides among other things that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company except pursuant to a written contract which has been approved by a majority of the voting securities of such registered company and provides, in substance, for the automatic termination of such contract in the event of its assignment by the investment advisor. "Assignment" is defined in section 2(a)(4) of the Act to include the direct or indirect transfer of a contract or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that as of October 12 1970, Equities and the other stockholders of Haywood entered into a definitive purchase agreement with Weiss, Peck & Greer, a member firm of the New York Stock Exchange, pursuant to which such firm has agreed to purchase all the capital stock of Haywood conditioned upon the approval by the shareholders of the three funds of new investment advisory contracts for each Fund with Weiss Peck & Greer. Applicants represent that such purchase agreement contains provisions ensuring that the proposed new investment advisory agreement with Hedge will retain the obligations that Haywood may have or would have with respect to repayment to Hedge of all or a portion of the management fee paid or payable to Haywood (or its successor) during the year April 1, 1970, through March 31, 1971 (which is the fiscal year of Hedge), by reason of a negative incentive adjustment and with respect to the application of any remainder of such negative incentive adjustment (after reduction of the base fee to zero) to offset any positive adjustment earned during the year April 1, 1970, through March 31, 1972 (as such terms are defined in the current investment advisory contract with Hedge). Such purchase agreement also obligates Haywood to repay to Hedge at the closing of such agreement the amount of base management fee paid by such Fund to Haywood during the period April 1, 1970, to such closing.

Applicants state that Weiss, Peck & Greer, pursuant to the letter agreement, will pay $1,150,00 to Haywood for its capital stock and all the indebtedness of Haywood to Equities outstanding at the closing of such purchase. Such indebtedness as of September 30, 1970 was $586,312. The remainder of the purchase price will be used to pay debts owned by Equities to its stockholders who are the subordinated lenders of Hayden, Stone.

Applicants state that a special shareholders meeting for the three Funds will be called and held as soon as practicable proxies will be solicited pursuant to a proxy statement in accordance with the Securities Exchange Act of 1934. Applicants believe that there may be a period of approximately 150 days from the assignment of the present contracts by the restructuring of Hayden, Stone and the establishment of new investment advisory contracts.

As conditions to the requested order, if issued pursuant to their application, Applicants have consented to the following:

(a) Such exemption shall be effective from September 8, 1970, the date of filing of the Application, for a period of 150 days or until the shareholder of each of the three Funds approve new investment advisory contracts, whichever date shall be earlier;

(b) During the period of such exemption Haywood will continue to render investment advisory services to each of the three Funds at a minimum of the same quality with substantially comparable

personnel and other resources and facilities as heretofore provided;

(c) Haywood will provide its services at the lesser of cost or existing compensation and expense arrangements provided by the present contract;

(d) Neither Equities nor the holders of the controlling block of its voting securities will take any action which will adversely affect the proper conduct of the business of Haywood, nor will they in any manner influence the allocation of the Funds' portfolio brokerage commissions;

(e) The unaffiliated directors of each of the Funds will form executive committees composed of a majority of such directors and will meet not less frequently than once monthly to ascertain whether all of the above conditions are being fulfilled by the parties and to review the general relationship between their respective Funds and the advisor, and will regularly report their findings to the Commission.

Notice is further given that any interested person may, not later than December 18, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-16266; Filed, Dec. 3, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 621]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 1970.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-72526. By application filed November 27, 1970, CLAUDIS W. ALLISON, 126 Southwest Sixth Street, Box 254, Checotah, OK 74426, seeks temporary authority to lease the operating rights of THOMAS RITCHIE, Route 1, Box 215A, Checotah, OK 74426, under section 210a(b). The transfer to CLAUDIS W. ALLISON, of the operating rights of THOMAS RITCHIE, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-16298; Filed, Dec. 3, 1970; 8:49 a.m.]

[Ex Parte No. MC-82]

PROPOSED NEW PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS

In the matter of further extension of time to file replies to comments.

Present: Laurence K. Walrath, Commissioner, to whom the matter which is the subject of this notice has been assigned for action thereon.

By the second supplemental notice herein, dated October 26, 1970, the date for filing replies to the comments invited on the proposed procedures for establishing the need for general rate increases was extended from November 12 to November 22, 1970.

On November 16 and 17, 1970, the Commission received requests from nine major motor carrier rate bureaus jointly, from three other rate bureaus individually, from the National Industrial Traffic League, and from the U.S. Department of Transportation, to further extend the time for filing replies. Some of the comments had not yet been received; some urge significant changes in the proposed procedures which require time for analysis and response; and some dispute the validity of continuing traffic studies designed by an eminent sampling expert with whom the bureaus must confer before replying, and who will not return to this country until December 1970.

It is urgent that improved procedures be established. Nevertheless, in view of their importance in future proceedings and the need to obtain the most comprehensive information possible, in the circumstances related by representatives of shippers, Government, and carriers, the time for filing replies to the comments is hereby extended to December 21, 1970.

This third supplemental notice will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 19th day of November 1970.

By the Commission, Commissioner Walrath.

ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-16302; Filed, Dec. 3, 1970; 8:49 a.m.]

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